

Manslaughter

Shooting - Domestic

Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Hill (1981) 3 A Crim R 397	Provocation Shooting – domestic	VG Murder		Conviction AA Manslaughter substituted 4y 6m NPP 1y		Shot husband after many years of physical abuse - on night of killing husband had returned home drunk and violent
2.	Manning NSWCCA 15.4.1988	Unlawful and dangerous - shooting Shooting - domestic	PG	5y NPP 2y	AD	nil	Shot husband - good relationship with history of violent arguments – on night of killing had argument over phone - went to friend's house and obtained rifle - shot at husband in dark intending to frighten him when he arrived home
3.	Roberts NSWSC (Hunt J) 31.8.1989	Unlawful and dangerous - shooting Shooting – domestic	PG	2y GBB		Nil	Aboriginal female shot husband - history of domestic violence - physical & psychological abuse - treated like a 'dog' - husband had ongoing affair - on day of offence violent argument - intended to shoot husband in leg but confrontation led to shooting in chest
4.	Ulgun NSWCCA 5.3.1991	Diminished responsibility Shooting - domestic	PG	MT 15y AT 5y	AA MT 12y AT 4y	nil	Fired ten shots at neighbours believing them to be contract killers Suffering paranoid schizophrenia
5.	Mathews (42) NSWCCA 17.4.1991	Provocation Shooting - domestic	VG Murder s.33 s.35 Armed with intent		Conviction AA Manslaughter verdict substituted MT 9y 8m 22d AT 6y 2m 11d		Custody dispute with parents-in-law - killed mother-in-law and badly wounded father-in-law

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6.	Troja NSWCCA 16.7.1991	Diminished responsibility Shooting - domestic	VG	MT 8y AT 4y	AD	nil	Shot husband who was having affair and wanted divorce – shot through glass door with rifle Depressive illness
7.	Ryan (46) NSWSC Abadee J 25.7.1991	Unlawful and dangerous - shooting Shooting - domestic	PG	MT 3y 4m AT 1y 1m (PSC 1.5m)			Shot wife with shotgun - deliberately placed gun near victim, threatening her Moderately affected by alcohol
8.	Gardner NSWSC Wood J 27.3.1992	Diminished Responsibility Provocation Shooting – domestic	PG	7y GBB			Shot husband under extreme stress – husband very ill with MS and physically dependent - child suffered cerebral palsy and was also utterly dependent - victim terrorised offender and kept gun beside bed – shot victim once, then buried and reported him as missing Extreme use of mechanisms of denial and repression developed to cope with major childhood traumas - son died in lead-up to trial - pregnant at time of sentencing - wholly exceptional case
9.	McMillan NSWSC Slattery AJ 17.12.1992	Unlawful and dangerous - shooting Shooting - domestic	VG	MT 5y AT 3y		PCA and unlicensed driver	Turbulent relationship with female victim - on day of shooting victim told him to leave - pointed rifle at victim and it discharged - affected by alcohol
10.	Morabito (1992) 62 A Crim R 82	Provocation Shooting – domestic Accessory	VG	MT 8y AT 2y 6m	AD	nil	Arranged for lover to shoot husband during day leave from gaol - victim had record for violence, involved in organised crime and history of domestic violence - lured victim to place of killing and supplied gun - genuine fear that victim would kill her and children if he found out about affair
11.	Panozzo NSWCCA 25.3.1993	Provocation Shooting - domestic	VG	MT 8y AT 2y 6m	AD		Shot estranged wife in front of two young daughters at point blank range - angered by finding love letters to another man
12.	Barnett (1994) 71 A Crim R 515	Diminished responsibility Shooting – domestic Victim under 18y			Conviction AA Manslaughter substituted: MT 8y AT 2y		Minding two step children while working as security guard - children arguing and shot step son at point blank range Brain damage as a result of car accident - loss of self- control Convicted of murder at trial

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13.	Alexander (1994) 78 A Crim R 141 NSWCCA 24.2.1995	Provocation Shooting - domestic		MT 2y 6m AT 3y 6m	Crown AD	nil	Shot wife during argument - provocation was victim's attitude and behaviour to offender's children from first marriage
14.	Tran (39) [1999] NSWCCA 443	Unlawful and dangerous - shooting Shooting – domestic	PG	MT 4y 6m AT 1y 5m	AD	driving offences	Suspected teenage brother stealing from mother - accidentally shot victim in head with licensed pistol trying to scare him Married with 5 children
15.	Butcher (50) [2000] NSWSC 92 Barr J	Provocation Shooting - domestic	PG	MT 2y 6m AT 2y		nil	Shot friend in chest after finding him engaged in sexual intercourse with wife Genuine remorse - depressed at time - will not re-offend
16.	Luong (17) [2000] NSWSC 505 Sully J	Unlawful & dangerous - shooting Criminal negligence Victim under 18y Shooting - domestic	VG	4y NPP 2y		nil	Hosted party for school friends at family home - while displaying gun deliberately fired at 16y female friend mistakenly believing no live ammunition in gun Excellent subjective features
17.	Trevenna (32) [2003] NSWSC 463 Buddin J (2004) 149 A Crim R 505 [2004] NSWCCA 43	Excessive self defence Shooting - domestic	PG	7y 6m NPP 4y 6m	Crown AD	Minor record – breached bond	Female - attacked by male house mate – choked and threatened with death – victim holding cricket bat – shot victim in back of head – volatile and deteriorating relationship – in fear of victim – victim large and intimidating male – unpremeditated - element of provocation Childhood history of sexual abuse – remorse – positive prospects of rehabilitation
18.	Hantis (48) [2005] NSWSC 549 James J	Substantial impairment Shooting - domestic	VG (at murder trial) PG Possess unauthor firearm	8y NPP 4y FT 6m (concurrent)			Deliberate and premeditated killing of mother's de facto husband – angered by perception that victim stealing from business and assaulting mother Suffering depression – serious injuries from suicide attempt – remorse – good character - genuine attempt to commit suicide

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19.	Zeng [2005] NSWSC 1344 McClellan CJ at CL	Substantial impairment Shooting - domestic	PG (25%) Manslaughter Possess pistol	8y NPP 4y 6m FT 18m (concurrent)			Female shot female cousin in head – upset by victim's plan to move out of shared accommodation – possessed gun with intention of committing suicide – impulsive offence - suffering major depressive disorder Remorse – Chinese national with language difficulties
20.	Nam (29) [2006] NSWSC 802 Adams J	Excessive self defence Shooting - domestic	PG (17%) Manslaughter 2 x Mal inflict GBH	4y 6m NPP 2y FT 18m (concurrent)		Minor – no violence	Attempt made by group of males to unlawfully evict offender and family (including 14m child) from farmhouse – program of intimidation undertaken at night involving violence and threats to rape and kill – offender panicked and provoked - fired shot gun at advancing group – use of gun reasonable but not uncontrolled firing - bottom of range - extremely provocative conduct of victims a substantial mitigating factor Father to young child
21.	Moore (72) [2006] NSWSC 1369 Bell J	Provocation Shooting - domestic	PG (25%)	4y 6m NPP 2y		Nil	Shot 41y neighbour from housing commission flats – lengthy period of confrontation intensified during previous 6 days – unsuccessful in attempt to obtain AVO – significant distress and turmoil – threatened by victim who was a drug user with mental problems Community involvement – impeccable character – early stages of dementia and some hearing loss
22.	Antaky (50) [2007] NSWSC 1047 Hulme J	Substantial impairment Shooting - domestic	VG (at murder trial)	8y NPP 6y		Nil	Shot brother-in-law during family dispute – victim displayed threatening behaviour toward offender's parents – offender had “fixed determination” to kill victim Depressive disorder
23.	Kaiser (34) Hunt (19) [2007] NSWSC 1362 Barr J (Kasier) [2009] NSWCCA 130	Unlawful and dangerous - shooting Shooting – domestic Accessory	PG Sched: Supply amphet PG	10y 11m NPP 8y 2m 9y NPP 6y 9m	AD	Breached conditional liberty – record for ADVO offences Priors – breached conditional liberty	K angry with former lover over ending of relationship and drug debt – arranged for H to 'deal with' her – H fired three shots at house killing V – carefully planned offence – K accessory in sense of not being shooter K – instigator and planner – drug addictions – bipolar disorder in remission H – chose to use gun

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24.	Seelin (37) [2009] NSWSC 286 Fullerton J	Unlawful and dangerous - shooting Shooting - domestic	PG (10%) Manslaughter Possess unauth firearm	7y 2m NPP 5y 4m FT 2y 6m (concurrent)		Nil	Friendly relationship with male neighbour soured – victim assaulted offender and made threats against family – offender kept loaded revolver in house with young children for some time before shooting – legitimate fear – on day of shooting spoke to victim over fence with loaded firearm concealed – victim later approached offender outside house and repeated threats – pursued offender into offender's house and damaged screen door – offender fired one shot through screen door – element of self-defence and defence of young children in house Prior good character – offence out of character – sound prospects of rehabilitation – mild chronic depressive illness
25.	Chant (41 – 48 at sentence) [2009] NSWSC 593 Howie J	Provocation Shooting - domestic	PG (5%) Manslaughter Interfering with human remains	4y 9m NPP 3y 4m FT 10m <u>Total:</u> 5y 4m NPP 3y 11m		nil	Female shot husband in head during argument – physically abusive relationship – gun initially produced by victim – dismembered body and disposed of in various locations Son assisted in hiding body

Last updated: Jan 2019