



JUDICIARY OF  
ENGLAND AND WALES

**IN THE CROWN COURT AT BRISTOL**

**BEFORE THE HONOURABLE MRS JUSTICE NICOLA DAVIES DBE**

**R v BERLINAH WALLACE**

**SENTENCING REMARKS**

Berlinah Wallace, you have been convicted of the offence of applying a corrosive fluid with intent contrary to section 29 of the Offences Against the Persons Act 1861. The particulars are that on 23 September 2015 you unlawfully and maliciously cast or threw at or upon Mark van Dongen a corrosive fluid, namely sulphuric acid with intent to burn, maim, disfigure or disable Mark van Dongen or to do some grievous bodily harm to him.

Mark van Dongen had been your partner. For five years he had been in a relationship with you providing emotional and financial support. On 2 September 2015 you bought a litre of 98 per cent concentrated sulphuric acid. If necessary, your intention was to use the acid to attack Mark van Dongen because he wanted to and had left you for another woman. It was not a random purchase. 82 entries on your computer demonstrate your research into sulphuric acid, the damage it could cause, the injuries which resulted when it was thrown upon individuals. You removed the label from the bottle containing the colourless fluid which stated that the acid causes severe burns and eye damage. You did so to prevent detection of the acid in your home. You chose your moment for the attack. It occurred when Mark van Dongen, wearing only boxer shorts, was asleep in the bed which you had shared in your flat. Vulnerable, almost naked, he awoke but had no real opportunity to avoid the focus of your acid attack, namely his face and then his body. Immediately before you threw the acid you said to Mark, "If I can't

have you, no-one can". Your intention was to burn, disfigure and disable Mark van Dongen so that he would not be attractive to any other woman. It was an act of pure evil.

The acid immediately began to burn Mark, causing excruciating pain. You did nothing to help him. You chose not to call an ambulance, instead you sat on the sofa of your living room and telephoned a friend. In agony, Mark ran into the road where neighbours tried their best to help and called the emergency services. Others heard his painful screams, as you must have done, still you chose to ignore his screams. Nothing better demonstrates your malicious and callous intention than your refusal to provide any help even when Mark was screaming in pain.

The burns which Mark sustained covered two-thirds of his face and a large percentage of his upper chest, arms and upper thighs. The burns were almost all full-thickness, affecting 25 per cent of his total body space. As a result of skin graft procedures over 40 per cent of Mark's total body area was affected by the burns. Jonathan Pleat, a consultant in burns surgery in Southmead and the University Hospital of Bristol said there had been no equivalent patient with similar extensive injuries following a chemical attack. He said that the pain suffered by Mark van Dongen was excruciating, the acid would have caused intensive burning pain within seconds of application to the skin.

Mark spent a total period of eleven months in the Intensive Care Unit. He underwent a number of operative procedures, his left leg had to be amputated because of the restriction of the blood supply. He lost the sight in his left eye and damage was caused to the sight in his right eye. The doctors had to use the strongest pain relief, namely opiates, which in themselves caused difficult side-effects. For four months Mark was not really able to communicate. He sustained not only burns but injury to the systems of his body. When in ICU he suffered recurrent chest infections, septicaemic shock, his kidneys were injured, there were problems with his gut and bleeding from a bowel. His heartbeat and liver function were altered. He received daily input from a team of physiotherapists. Notwithstanding the efforts of all Mark developed Critical Illness Neuropathy as a result of which he gradually lost the use of muscles such that at the time of his discharge from hospital in November 2016 he was paralysed from the neck down with no movement in his upper arms and legs. Had Mark survived there would have been further operations, he would have required extensive care for the rest of his life. Another treating clinician said that his physical appearance would never be restored to anything which could be described as normal, it would be drastically different and unrecognisable to friends and family, he had been permanently and irrevocably drastically disfigured. The facial scarring

was categorised at the severe end of very severe scarring. The doctor said that Mark had suffered emotional and psychological damage which would have affected his life in addition to the extensive physical damage.

As a result of the injuries which you inflicted, Mark van Dongen chose to end his life by undergoing voluntary euthanasia in Belgium. The doctors who examined Mark van Dongen following his application for euthanasia concluded that his was a case of unbearable physical and psychological suffering despite maximum medicinal support. They authorised the procedure. Mark's father, in his evidence and a statement to this Court, described the suffering of his son in England and Belgium. Mark van Dongen died on 2 January 2017. By reason of your acquittal on Count 1, the charge of murder, I do not sentence you for the fact that as a result of these injuries Mark van Dongen chose to take his own life. I do sentence you for the harm which you inflicted, the catastrophic and life changing injuries, the fifteen months of acute physical and psychological suffering of Mark van Dongen.

Having carried out this horrific attack you then told lie after lie. When interviewed by the police you sought to place the blame upon Mark van Dongen falsely alleging that he had poured the acid into the glass on your bedside table intending that you should drink it. It was an account which you gave in September 2015 and maintained throughout this trial. It was an account which was properly rejected by the careful and attentive jury at your trial. Not only did you make this wholly false accusation to the police and throughout this trial you further sought to destroy the name and character of Mark van Dongen, alleging that he was the abuser in your relationship, that he had subjected you to verbal and physical abuse. Mark van Dongen is no longer alive. He was unable to defend himself against any of your accusations. However, former colleagues told of Mark's account to them of you threatening to injure yourself by one means or another in the event that he would leave you such that the police would be informed and he would be blamed for the injuries which you had inflicted upon yourself. I accept their evidence. I also accept that Mark told a colleague and his father that he was scared of you. He was right to be so because he had some idea of what you were capable of.

I do not regard it as coincidence that in the course of your many researches of sulphuric acid on 14 September 2015 you clicked onto an article in the Daily Telegraph, a report of a criminal trial in which a male was alleged to have forced or tricked his girlfriend to drink a glass of acid. That gave you your defence, one you had considered even before you carried out your attack. It was another example of the planning which preceded the throwing of the acid upon the man

who had been your supportive partner for five years. Even when he sought to end the relationship Mark van Dongen said he would continue to provide financial support for you but that was not enough. The texts which you sent to him in August and September 2015 demonstrate the emotional blackmail to which you were subjecting Mark van Dongen because he wanted to leave you. You made fourteen silent phone calls to his new girlfriend. It was because of his concern for you and your previous threats of self-harm that Mark came and stayed at your home on the night of 22 September. He returned at 10.00 pm, it was shortly before 3.00 am that you chose to attack him. Only you know what occurred in those hours to anger you. I believe it likely that, yet again, Mark was seeking to leave you. In throwing the acid you knew exactly what you were doing, it is what you had thought about and planned. Without a thought for anyone but yourself it is what you did.

This was not the first time you had inflicted injury upon Mark. I am satisfied that in 2011 you threw hot water over him, as a result of which he sustained injury and sought medical treatment. He told the doctor he had accidentally tipped tea over himself. In the summer of 2015 Mark showed his colleagues and his new girlfriend scratches on his body which I find were inflicted by you. When angry you are capable of using violence. Anger is a part of your character and you know that. In December 2013 you told a counsellor at the University of the West of England that you had been physically violent to and had threatened or intimidated other people. You told her that you got very angry and at times threatened or intimidated your boyfriend, you had hit out and thrown things. In January 2014 you spoke to a psychiatric nurse at the same university about trying to control your emotions, in particular anger. You described an adrenaline rush when someone says the wrong thing, you said you felt like you could destroy everything around you. You told the nurse that you used to have problems managing anger when you were about eighteen but you got it under control again. In August 2015 you told the same nurse that you were not feeling well as a result of the breakup with Mark, you had not been expecting it, you had not been coping well since, you felt depressed, angry, betrayed and anxious. The nurse notes that you described how anger can be a problem for you, that you act impulsively at times, you worried that that may cause problems with Mark and his new girlfriend if you were acting on anger.

In your evidence you spoke of a difficult childhood and teenage years in South Africa, of becoming HIV positive as a result of being gang raped when aged 20. Having listened to your

evidence given over three days I treat much of what you say with considerable caution. Even allowing for a difficult childhood nothing can begin to excuse your actions.

There are no Sentencing Council Guidelines specific to this offence. Some assistance can be derived from the Sentencing Council Guidelines in respect of a section 18 assault, namely causing grievous bodily harm with intent. Applying those Guidelines it is accepted that your offending would fall within Category 1, greater harm and higher culpability. As to higher culpability there are a number of aggravating factors: a significant degree of premeditation; the use of a weapon (acid); the deliberate targeting of a vulnerable victim. Factors increasing the seriousness of your offending are the ongoing effects upon the victim, previous violence to the same victim and an abuse of a position of trust. Mark was sleeping in your bed in your flat by implication at your invitation. For the purpose of this sentence you have no relevant convictions.

On your behalf Ms Elder informed the Court that no reports were sought. I did not consider reports to be necessary.

Section 225 of the Criminal Justice Act 2003 provides for the passing of a discretionary life sentence as follows:

“(1) This section applies where—

- (a) a person aged 18 or over is convicted of a serious offence committed after the commencement of this section, and
- (b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by him of further specified offences.

(2) If—

- (a) the offence is one in respect of which the offender would apart from this section be liable to imprisonment for life, and
- (b) the court considers that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of a sentence of imprisonment for life,

the court must impose a sentence of imprisonment for life.”

You are aged 49, the offence of which you have been convicted is a “serious offence”. I find you are “dangerous” for the following reasons:

- (i) You chose to carry out this attack using 98 per cent concentrated sulphuric acid knowing the damage it could cause;
- (ii) You deliberately threw the contents of a glass of the acid at the face and towards the upper body of Mark van Dongen when he was in bed, wearing only boxer shorts and had been sleeping until immediately before the attack. Your conduct can properly be described as sadistic;
- (iii) You ignored Mark's cries of pain and chose to telephone a friend rather than the emergency services when you would have known that Mark urgently required medical help;
- (iv) This was a premeditated offence which involved not only the purchase of one litre of acid but research into the damage it was capable of causing;
- (v) Your attack caused catastrophic and life changing injuries to Mark van Dongen, fifteen months of intense physical and psychological suffering;
- (vi) Your previous violence towards Mark van Dongen in 2011 and 2015;
- (vii) Anger is a part of your character which you acknowledge and over which you have been found to have demonstrated no control;
- (viii) On the clearest evidence you have been shown to be a manipulative and controlling woman who has lied without compunction or conscience in an attempt to avoid culpability.

At the core of the significant risk of serious harm which you pose to those be it family or persons in a relationship with you is your anger which you are still unable to control. It is coupled with a brain capable of working out how to inflict damage upon the person who has incurred your anger. It has manifested itself in the most serious of offending causing immeasurable harm. Life imprisonment is the only sentence which reflects not only the nature of your offending but the continuing risk which you pose. In passing a life sentence the minimum term to be served before you can be considered for release on licence has to be determined. In my judgment the appropriate determinate term of imprisonment would have been 24 years. In accordance with sentencing practice when setting the minimum term for an indeterminate life sentence the minimum term will be half of the equivalent determinate sentence, namely 12 years.

Berlinah Wallace will you please stand.

On Count 2 the sentence of the Court is one of imprisonment for life, the minimum term of imprisonment which you must serve is one of 12 years. Credit will be given for 972 days in custody. If the number of days spent on remand is incorrect it can be corrected administratively.

The 12 years' imprisonment, less the days spent on remand, is not the actual term you will serve in custody; it is the minimum term which you must serve before you can be considered for release by the Parole Board. The time you actually serve may be longer. The Parole Board will only direct your release on licence if it is satisfied that you are no longer a danger to members of the public. When you are released you will remain on licence for the rest of your life and will be liable to be recalled by the Secretary of State.

NICOLA DAVIES J

23 MAY 2018