



JUDICIARY OF
ENGLAND AND WALES

THE HON. MRS JUSTICE WHIPPLE DBE

In the Central Criminal Court

R v Bernard Rebelo

11 March 2020

1. On 12 April 2015, Eloise Parry died. She was 21 when she died. She was a bright student, a loved sister and daughter, and a friend to many. I have read her mother's moving victim impact statement and I acknowledge the family's pain in losing Eloise, or Ella as they called her, so young and so unexpectedly.
2. Eloise had struggled with her mental health for some years. She had experienced setbacks in her early life which had reduced her mental resilience. When she was 17, she was diagnosed with bulimia nervosa. When she was 18, she was diagnosed with emotionally unstable personality disorder. She had depressive episodes. She had repeatedly self-harmed and had made several attempts on her own life. She was extremely vulnerable.
3. In this mentally disordered state, she started to take 2, 4 Dinitrophenol, known as "DNP".
4. DNP is an extremely toxic substance. It is a yellow powder which was originally used in making munitions in World War I. It was banned in the USA in 1938, because it was dangerous and unsafe and not fit for human consumption. In the UK, it is not licensed as a food or as a medicine, and it cannot therefore lawfully be sold for human consumption.
5. DNP has a market in the UK, amongst body builders and those who want to lose weight. That is because DNP can result in weight loss, specifically the loss of fat surrounding muscles. It is worth noting why that is so: DNP inhibits the process by which individual cells store energy, so that the body's temperature rises, which leads

to the break-down of fat stored in the body. A by-product of this process is that damage can be caused to muscular tissue and to vital organs, which can lead to serious physical damage or death.

6. There is no safe dosage for DNP: even small amounts can have devastating consequences. There is no antidote or remedy for DNP once taken. In consequence, DNP has a staggeringly high mortality rate – of those who presented at hospital between 2007 and 2019 with a history of having taken DNP, 18% died. This puts DNP close to cyanide in terms of its toxicity. The literature about DNP suggests that taking it is like “Russian Roulette”: you don’t know if you are going to live or die.
7. Eloise Parry had a distorted body image and a morbid desire for thinness. This was part of her mental illness. She started to take DNP in February 2015. Over the following weeks, the amounts she took got larger and larger. In the early hours of 12 April 2015, she took 8 tablets at 250mg strength. Later that morning, she drove herself to hospital, arriving at around 10am. She knew she was in trouble. She sent messages of regret to friends and colleagues. Her physical condition deteriorated rapidly. She started to exhibit harrowing signs of serious illness. In the end, and despite the hospital’s best efforts to save her, she suffered a cardiac arrest and died at around 3pm.
8. I turn to your part in this tragic story, Mr Rebelo. You started selling DNP through your internet business, DrMusclePharmaceuticals.com, in 2013. You sold Eloise Parry the DNP which proved fatal to her: the jury was sure of that, despite your efforts to suggest otherwise. She had been a regular customer of yours in the weeks leading up to her death. By selling her DNP, you caused her death. It is that simple.
9. You imported the DNP in drums from China. You packaged the DNP into capsules in two strengths, 125mg and 250mg. You sold the capsules at a significant mark-up, sending the capsules in little packages around the world. You encouraged customers to use DNP with reckless sales talk, often using your trading handle DrMusclePharma when you participated in discussions on-line. When customers told you about side-effects they were experiencing, you told them to ignore the physical signs and symptoms and to adjust the dosage. But you knew DNP was dangerous. You said as much in some of your on-line posts. The Food Standards Agency issued warnings in 2003 and 2012, you ignored those. Even after Eloise Parry’s death, you carried on trading, despite Interpol issuing an Orange Warning in April 2015, which related to a different victim who had been hospitalised after taking DNP purchased from you, and

despite you knowing about Eloise Parry's death from downloads about her inquest which were found on your phone. Still you carried on trading in DNP, even up to February 2016 when your business premises were searched by Harrow Environmental Services.

10. As well as selling a dangerous substance and lying about its beneficial effects, your business methods were dishonest. You pretended to be part of The Supplement Store, a legitimate business which in truth has nothing to do with you. You disguised your packages of DNP with false descriptions, such as "optimum gold", the name you gave to Eloise Parry's DNP. You lied to CCNow, your financial intermediary, to get that company to accept you on their platform. You moved your website to a different host when it looked like the authorities were catching up with you in December 2013. You did all you could to avoid detection and keep your DNP business going.
11. By that business, you sold a seriously dangerous substance and exposed many, many people an obvious and serious risk of death. This was grossly negligent; what you did was truly, exceptionally bad. These were the findings of the jury. This is the basis on which I must sentence you.
12. This is a retrial. That means I cannot impose a sentence which is more severe than the sentence originally imposed at your first trial. The sentence then passed was 7 years imprisonment, with 18 months to serve concurrently for food safety offences.
13. I have had regard to the Sentencing Council's guidelines on manslaughter which have come into effect since your first trial. Plainly, this offending passes the custody threshold. I am satisfied that you should not be sentenced as a dangerous offender. In my judgment, your offending falls within category B for culpability. That is because you showed a blatant disregard for a very high risk of death, and you were motivated to do so by financial gain. The harm is obviously of the highest order: Eloise Parry died as a result of your actions. The guideline starting point is 8 years imprisonment in a range of 6-12 years.
14. Your offending was aggravated by two factors. First, you ignored clear warnings from the authorities about the dangers of selling DNP. Secondly, you put a great many people at risk of harm by your conduct; yours was a well-organised and planned business with a wide reach and a long customer list. These are, truly, aggravating

factors. I do not accept that they are already reflected in the categorisation of the offence.

15. You have available to you three factors in mitigation. First, that you are a man of 32 years old with no previous convictions, beyond the single conviction for food safety breaches which arise out of the same facts and matters as this prosecution. That means you are a man of good character, as I directed the jury. Secondly, you have already spent some time in prison following your first conviction. You used that time profitably to help others, and that is to your credit. After that conviction was quashed you were released on bail and then had to wait for around 10 months for this retrial to occur. You picked up the threads of your life outside prison during that time. Yet you knew you had this second trial hanging over you. That must inevitably have caused you, and those around you, additional anxiety. Third, you have personal circumstances which I take into account. You have a large family, including your young daughter who you look after, as her primary carer, when your partner is at work. You have many close friends and associates. Many of your family and friends have written to the Court in advance of today's hearing. I understand that your absence whilst serving a sentence will impact adversely on many of them and your relationships with them. This factor cannot weigh heavily in your favour, given the wrong that you have done to Eloise Parry and her family.
16. I have listened to all your advocate has to say on your behalf. I do not believe that more could have been said.
17. I am not, however, persuaded that you have shown real remorse about this offending. You chose to put the prosecution to proof of your offending. You offered no evidence to the jury about your DNP business. Further, I am not able to accept that the actions of others beyond your control compounded your negligent conduct; to the contrary, it seems to me that your DNP business was opportunistic, in exploiting the vulnerability and desperation of many, like Eloise Parry, who wished to lose body fat.
18. By operation of statute, the sentence will run from 29 June 2018, the date on which you were originally sentenced. Neither of the statutory disregards under paragraph 3 of Schedule 2 to the Criminal Appeal Act 1968 apply. For clarity, I confirm that you will have credit for time already served. Time served runs from 29 June 2018 to 25 April 2019, a total of 301 days. I also direct, if it is necessary for me to do so, that time spent on bail between 25 April 2019 and 9 March 2020, when I remanded you in custody pending sentence, will not count towards your sentence.

19. If I was starting afresh, your sentence would be in the region of 8 years. But this a retrial, and I am limited in the sentence I can impose.
20. Bernard Rebelo, for the manslaughter of Eloise Parry by your gross negligence, I sentence you a total period of **7 years** imprisonment.
21. You will serve up to half of that total term, following which you will be released on licence. You can be recalled to prison to serve the balance of your sentence if you break the terms of that licence. The victim surcharge provisions apply.