

COMP6445
Required = read section on Poison (paras 39-52)

Poison

39 At the trial evidence was admitted, without objection, which, if accepted, would show that the prisoner had intended to kill his parents by poisoning them and had actually administered poison to his mother. I have decided that I should accept this evidence and make findings of fact on the basis of this evidence.

40 Beginning in February 2001 and continuing into June and July 2001 the prisoner made computer searches on the Internet concerning poisons and particularly poisonous plants and especially extremely lethal poisons made from the seeds of two particular plants. An order was made before the trial commenced forbidding publication of the names of these plants and I will not state the names of these plants in these remarks on sentence. The prisoner made enquires by email to suppliers of these plants both in Australia and overseas.

41 On Sunday 24 June 2001 the prisoner sent an order form by express post to an Australian supplier of seeds of one of the plants. On Monday 25 June the prisoner noticed on the supplier's website that the supplier was on annual leave. On 25 June the prisoner sent an email to the supplier, saying that he had ordered the seeds "as a gift for my mother's sixtieth birthday this week-end, she has been looking for those particular seeds ever since she saw them in Florida last year" and asking the supplier to make an exception and supply the seeds the prisoner had ordered, notwithstanding that the supplier was on annual leave. I note in passing that the prisoner's mother was forty-three, and not sixty, years old and that she had not travelled to Florida the previous year.

42 Further emails were exchanged between the prisoner and the supplier. The supplier dispatched the seeds the prisoner had ordered and informed the prisoner that the seeds should arrive on Friday 29 June. The prisoner received the seeds he had ordered on or about 29 June.

43 On Sunday 1 July Mrs Gonzales complained of feeling unwell. On Tuesday 3 July she was admitted to the Adventist Hospital at Wahroonga, where she remained overnight. She was discharged from the Adventist Hospital the following afternoon.

44 The doctor who treated Mrs Gonzales at the Adventist Hospital noted that Mrs Gonzales gave a history of three days of worsening abdominal pain and diarrhoea. Mrs Gonzales herself attributed her condition to something she had eaten or drunk at a restaurant on the night of Saturday 30 June. The doctor who treated Mrs Gonzales at the Adventist Hospital formed the opinion that Mrs Gonzales was suffering from colitis, that is an inflammation of the bowel, which might have been caused by food poisoning. Understandably, the doctor did not consider the possibility that Mrs Gonzales had been poisoned by a rare poison extracted from the seeds of a plant. The results of tests which were performed at the Adventist Hospital on Mrs Gonzales blood, faeces and urine were in fact inconsistent with her condition being due to food poisoning.

45 On 2 July 2001 a well known food manufacturer received an anonymous letter stating that three of its products had been poisoned, that they were now on the shelves of supermarkets and "this is what you get for treating employees like garbage".

46 On July 2001 the Australian Federal Police and the Australian Quarantine Inspection Service received letters, which were in the same terms, purporting to be from "concerned employees" of the food company, stating that the employees had received anonymous communications to the effect that some of the company's products had been poisoned and that the employees had tried, unsuccessfully, to persuade the management of the food company to increase safety measures, to remove products from retail outlets and to warn the public.

47 I am satisfied, on the basis of evidence given by a computer expert who examined computers used by the prisoner and was able to retrieve traces of the letters and the evidence of a fingerprint expert who identified a fingerprint on the envelope in which the letter to the Australian Federal Police was enclosed as being a fingerprint of the prisoner, that the prisoner composed and sent all three letters, that is the letter to the food company and the letters to the Australian Federal Police and the Australian Quarantine Inspection Service.

48 After 10 July 2001 a cannister containing liquid was found by police in the prisoner's bedroom at 6 Collins Street. Attempts were made by police to have the liquid analysed. A laboratory in the United States reported that it had detected one of the two plant seed poisons in the liquid but that the testing the laboratory had carried out was not sufficiently reliable for court purposes.

49 A young woman with whom the prisoner formed a relationship in January 2002 gave evidence at the trial that the prisoner told her in January 2002 that he had researched a plant seed poison, that he had ordered some of the seeds, that he had used hot water to extract poison from the seeds and that he had kept the poison in his room, until it had been confiscated by the police.

50 I am satisfied to the requisite standard that Mrs Gonzales' illness was not due to food poisoning but was due to the administration to her by the prisoner of poison he had extracted from the seeds he had received from the supplier. I base this conclusion on inter alia the searches made by the prisoner about the two poisons, the statement in the prisoner's email to the supplier that he had ordered the seeds as a gift for his mother for the following week-end, the supply of seeds of one of the plants to the prisoner on or about Friday 29 June, Mrs Gonzales' illness commencing on 1 July, the inconsistency of the results of the tests performed on Mrs Gonzales at the Adventist Hospital with a diagnosis of food poisoning, the consistency of her symptoms and the results of the tests performed on her with poisoning by poison from seeds of one of the plants, the sending by the prisoner on or about 2 July of the letters to the food company, the Australian Federal Police and the Australian Quarantine Inspection Service alleging that products of the food company had been poisoned, the finding of the cannister of liquid in the prisoner's bedroom and the admissions made by the prisoner to the young woman in January 2002. The letters were sent by the prisoner to the food company, the Australian Federal Police and the Australian Quarantine Inspection Service with the intention of raising the possibility that Mrs Gonzales, if it was discovered she had been poisoned, had been poisoned by consuming one of the food company's products and of diverting any suspicion from the prisoner.

51 I reject a suggestion which was made at the trial that the prisoner made the Internet searches about poisons and ordered poisonous seeds, so that he could use the poisonous seeds to commit suicide.

52 The principal significance for sentencing purposes of the evidence about poison and the prisoner administering poison to his mother is that it shows that the prisoner had premeditated killing members of his family and that the intention to kill members of his family was not something that arose, unpremeditated and for the first time, on 10 July 2001. Before 10 July the prisoner had administered to his mother a poison which he believed would be lethal. That Mrs Gonzales did not die was probably because the prisoner's attempt to extract poison from the seeds was only partly successful.

False Alibis and False Trails

53 At the trial the prisoner raised two alibis, both of which the jury must have rejected beyond reasonable doubt.

54 The first alibi was to the following effect. On the afternoon of 10 July 2001 the prisoner left his father's office at Blacktown at about 4.30. On the trip home the prisoner received a text message from Sam Dacillo that Sam Dacillo had a basketball game that evening and would be unable to meet the prisoner at 6 o'clock, as had previously been arranged between them. The prisoner arrived home at about 6 o'clock and