

Legal issue report

[Business](#), [Company](#)



R. WILLIAMS CONSTRUCTION CO. V. OSHRC

R. Williams Construction is a company that deals with digging trenches in construction work. According to the employees of the company, minimal supervision of the workforce is part of the company's culture. In fact, the employees could even engage on some duties without being instructed to. At one time, a tragedy occurred following the crumbling of a trench, killing one employee, Jose Aguiniga, and injuring another, Adam Palomar. The two were cleaning the pumps, but had not been instructed to do so.

Following the investigations undertaken by the Occupation Safety and Health Act (OSHA), an organization that deals with ensuring the safety of employees while they are at work, the company was held accountable for the death as well as injuries on its employees while at work. According to the investigations, company had failed to meet the regulations given by the Act, which eventually resulted in the accident. The company had not implemented any laws that would instruct the employees of their duties, hence the employees were undertaking their duties as a routine without being aware of the dangers. OSHA found the company at fault and charged it with violation of several laws, which it had put in place to help reduce the number of injuries or deaths that occur at work places.

It was noted that the company had violated four regulations. First, it had failed to instruct its employees to recognize and avoid dangerous working conditions. Secondly, it had failed to ensure that its employees did not exceed the twenty five feet zone, which is rendered the safe zone. Thirdly, the company had failed to involve a competent person, who would check the trench and ensure that it was in good condition or guide them on the areas

to work on as well as the condition of the soil. This competent person should have been specifically trained in trench safety and would direct the employees appropriately or even conduct the services him/herself. Lastly, the company failed to ensure that the walls of the construction were either slipped or supported.

Explain what the employer did or failed to do that violated the OSH Act

The first thing that Williams Construction Company violated was that, they failed to provide instructions to the employees as well as the managers regarding the recognition and avoidance of dangerous working conditions. Evidence and testimonies collected from other workers indicated that Williams did not provide any training to the employees regarding trenching hazards. The supervisors of the company were not familiar with the regulations given by the Occupation Safety and Health Act. Besides, based on the facts provided, no or little supervision was given to employees while working. In fact, this is one of the reasons why the employees had developed a culture of undertaking certain duties without being instructed to do so. Secondly, Williams had also violated OSHA's regulation by providing only one safe means of egress at the east end of the 45- foot trench. This implies that the company had failed to create more safety exits in case of a tragedy. Another violation was that the Williams Construction Company had failed to designate a competent person with adequate training and skills to identify and rectify the existing and predictable dangers. This was also noted with the supervisors at the company as they were not familiar with the basic standards applicable to the worksite. Perhaps, the personnel could have

alerted the employees on the dangers they were likely to face on the day of the accident, and they could have either avoided working in that section or worked with a lot of care to avoid any possible accidents. In addition, the company had failed to protect its employees from cave-ins similar to the one that took place. This was a total violation of the Occupation safety and Health act. The employers were well aware that the employees would enter the trench on that fateful day but did nothing about it. They were also aware that the two employees had entered the trench before it caved in.

Explain why it was “ unavailing for Williams to argue that employees must take greater care to avoid placing themselves in harm’s way.”

When the company was charged with the violation failing to protect its employees from cave-ins, Williams defended himself by saying that employees should take greater care to avoid placing themselves in harm’s way. This argument was contradicting with the requirements of the OSHA regulations in that it is the duty of the employees to ensure that the company employees are not exposed to any form of danger. The Occupation Safety and Health Act requires that employees protect their workers and should not expose them to any dangerous conducts and if they did huge fines would be enacted on them. In this case, Williams Construction Company had failed to ensure that the employees were out of danger and thus charged with violating the OSHA regulations. In addition, it is the duty of the employees to ensure that employees work in areas instructed by employees. There are no employees who will or would have exposed themselves to dangerous situations without the assurance of the employees. Similarly, the employees were not aware that the hydraulic jack had been

removed. They thought it was still a safe zone to work in as they did not receive any instructions informing them that the jack had been removed. Therefore, Williams's argument was unavailing as it did not have any reasonable explanation.

Explain what role, if any, employees' actions should have in determining liability under the OSH Act.

Employees' actions have a role in determining liability as given by the OSH Act in that their rights as contained in the Act grant them the mandate to seek compensation in case of any injuries or death. They are also supposed to file complaints with the OSH Act in case they are discriminated against by their employers. They also have a role in asking the company to provide information and training on the hazards, methods to prevent harm and the OSHA standards that apply to their workplace. If any of these rights are denied, the employees are allowed to file charges with the OSH Act. By asking for their rights under the OSHA the employees are able to determine the liability as they are well aware of what is expected.

References

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