



Third Degree Murder Charges For Philadelphia Building Collapse

Insights

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EHS Today just reported that the Philadelphia District Attorney is taking the unusual step of charging two contractors for crimes ranging from multiple murder and manslaughter charges to risking a catastrophe as a result of the fatal collapse of the Philadelphia building last June, that killed 6 people and injured 14.

Federal OSHA rarely seeks criminal sanctions because the OSHAct does not provide very meaningful criminal provisions. Even where OSHA may be inclined to pursue a criminal action based upon issuance of willful citations associated with a fatality, the relevant U.S. attorney may show little interest in spending time for such a small punishment. One is much more likely to see Federal criminal actions based upon destruction or falsification of evidence or other misconduct associated with the OSHA inspection.

District Attorneys are another matter. We have dealt a number of criminal investigations by District Attorneys. While most District Attorneys Offices are unfamiliar with the nuances of a building collapse or other catastrophe, their Economic Crimes unit understands how to look for conspiracy and similar bad actions. Even with ethical clients, we nevertheless closely manage testimony and evidence provided following a catastrophic accident. One manager may be interviewed by agencies ranging from ATF to OSHA and the local Police. It is essential to be consistent and accurate. When multiple employers are involved or additional parties such as architects and structural engineers, there is an increased possibility that investigators might perceive a conspiracy before the incident or during the inspection.

As to the Philly DA's analysis, we know only what is set out in the news coverage. The press coverage illustrates how decisions made before and during a job may later suggest bad behavior. Grand jury documents apparently indicate that jurors learned that it was inappropriate to demolish the building in the fashion done, and that the building should have been taken down by hand. According to EHS Today's article, the piece-by-piece demolition method is expensive and time consuming, and the company had agreed to a deadline and a flat-fee contract. Any time a construction fatality occurs, you can bet that OSHA and others will look to see if the employer was rushed, over budget, exposed to penalties or otherwise had reason to cut corners. The article also notes that the contractor retained salvage rights to maximize profits. Supposedly, this is the reason for first removing all of the wooden joist holding up the floors because joist were valuable for resale. This action is described as leaving the exterior walls without sufficient support. Sandy Smith's excellent EHS Today article proceeds to describe actions that were perceived as "shortcuts."

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OSHA has already announced citations for willful, egregious violations against one contractor and a willful violation against another employer, for over \$400,000 in total penalties.

One lesson from this sad story is that employers should always treat workplace fatalities and the related OSHA inspection as potentially only the “appetizer” before future more involved legal challenges.

This case bears watching. Let us hope that this tragic event serves to prevent future similar occurrences.

For more information on the Grand Jury’s reasoning, go to the NYT site:

R. Seth Williams, the district attorney, said prosecutors had formally charged the contractor, Griffin T. Campbell, 49, with six counts each of third-degree murder and involuntary manslaughter, 13 counts of reckless endangerment, and single counts of criminal conspiracy, risking catastrophe and causing catastrophe.

Mr. Williams said a grand jury recommended last week that Mr. Campbell be indicted on the charges. The excavator operator at the building site, Sean Benshop, 42, was charged in June with six counts of involuntary manslaughter, 13 counts of reckless endangerment and one count of risking catastrophe.

In a statement on Monday, Mr. Williams said the grand jury had determined that Mr. Campbell was “at the center of culpability for the collapse” and that the June 5 accident occurred because the building’s structural supports, including some of its wooden joists, had been removed early in the demolition, leaving walls and floors without adequate support.

“It was Campbell who decided on the method of demolition and who personally controlled it in the manner that caused the catastrophe,” Mr. Williams said.

Mr. Williams said Mr. Campbell was being paid a flat fee for the demolition and was intent on doing the work as cheaply as possible while saving scrap from the building for resale.

The prosecutor said Mr. Campbell had been particularly concerned about recovering the joists, which have a high resale value.

On the day before the collapse, Mr. Williams said, an architect warned Mr. Campbell that the largely unsupported 40-foot-tall western wall of the building was in danger of failing after workers removed joists, bricks and braces that had helped hold it in place.

“Campbell promised that he would rectify the problem at once, before the next morning, by erecting scaffolding and reducing the west wall by hand,” but failed to do so, because he was “unwilling to pay for enough labor to perform the task,” Mr. Williams said.

*On the morning of June 5, Mr. Campbell called the architect to say the wall had been taken down, although it had not, the prosecutor said. **Continue at NYT.***

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