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Report: 2016 trench collapse death finds employer at fault, had 'no defense'

Jul 8, 2020



James B. Rogers died in a Washington Twp. trench collapse accident in 2016.

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The employer in the first of three local fatal trench collapses since 2016 broke safety laws, according to an Ohio Bureau of Worker's Compensation finding.



James B. Rogers, 33, of Winchester, died June 15, 2016, when he was buried alive after a nearly 11-foot trench collapsed while he was trying to install a sewer pipe during the construction of a Washington Twp. residence.

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The father of three was working for KRW Plumbing of Jamestown, which was owned by Richard Williams. KRW Plumbing had a trench collapse about a month earlier at another job site, according to Occupational Safety and Health (OSHA) records.

Williams “agreed that he was in violation” of specific trench safety codes and said that “he had no defense,” according to an Ohio Industrial Commission record of proceedings from a Feb. 19, 2019, hearing that was released last month.

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A staff hearing officer awarded Rogers’ widow, Stefanie, 50 percent of the maximum weekly compensation rate allowed by law, according to the record.

On Saturday, 43-year-old Dalbert Burton died during a trench collapse in Sugarcreek Twp.

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On Dec. 27, 2017, 25-year-old Zachary Hess died after a trench collapse at The Woodland of Morrow development.

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“This ruling means a lot to the family,” said Craig Matthews, attorney for Tara Brown, Rogers’ sister who brought a civil lawsuit on behalf of Rogers’ estate. “They believed from the onset that something had been done wrong and were relieved that the government investigation confirmed that. A trench box should have been in place. If it had been, James would be alive today.

“And if people had heeded the warning from the lawsuit the family filed, the two subsequent deaths likely would have been avoided.”

RELATED: ‘It’s getting deep’ man texted before death in trench

In March 2018, two longtime city of Oakwood workers were injured but survived a trench collapse on Northview Road.

Charles Rohrback was buried up to his waist for hours and Philippe PrevotEAU was injured when he tried to help Rohrback. The state cited two violations.

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The Rogers' death claim was heard before staff hearing officer Vicki Singleton, who found that Williams had not provided any shoring or protection.

One code violation cited in Singleton's report said "the exposed faces of all trenches more than five feet high shall be shored, laid back to a stable slope, or some other equivalent means of protection that shall be provided where employees may be exposed to moving ground or cave-ins."

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Another code cited said, "The walls and faces of all excavations in which employees are exposed to danger from moving ground shall be guarded by a shoring system, sloping of the ground, or some other equivalent means."

Singleton wrote that she took evidence from the Montgomery County Sheriff's Office and co-workers' statements that the trench Rogers was in was 10.5 to 10.9 feet deep, three to four feet wide and that the excavated material was not at a minimum distance of 24 inches from the top of the trench.

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Brown sued KRW Plumbing Inc., Williams, South Dayton Builders and Remodelers Inc., South Dayton owner Timothy Dickey and real estate developer and investor Donald C. Wright, who owned the lot and hired South Dayton, which in turn hired KRW.

The civil case in Montgomery County Common Pleas Court has been delayed by bankruptcy cases filed by Dickey and Williams. Matthews said he hopes he can get the civil case moving again "shortly."

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