

Prosecution



Summary

On 27 June 2017 a group of children, including 11-year-old Harrison Ballantyne, were able to easily gain access to premises controlled by WH Malcolm Limited at Daventry International Rail Freight Terminal near Rugby. The children were trying to retrieve a football they had been playing with and as they were doing so, Harrison was able to climb on top of a stationary freight wagon, where he received a fatal 25,000 volt electric shock from the overhead line. He was pronounced dead at the scene despite efforts from paramedics.

ORR's investigation found WH Malcolm had not only failed to assess the risk of unauthorised access to the terminal, but also failed to implement appropriate measures to prevent unauthorised access to a part of the site where there were frequent freight movements and overhead line equipment energised at 25,000 volts.

Company

W H Malcolm Limited

Breaches involved

1. Section 3 of the Health and Safety at Work etc. Act 1974
2. Regulation (3)(1)(b) of the Management of Health and Safety at Work Regulations 1999

Date(s) of offence

7 June 2008 – 30 June 2017 for both offences

Plea

Not guilty

Result

Found guilty on both counts by jury on 7 July 2021

Court

Northampton Crown Court

Sentencing date

30 July 2021

Penalty

Fine: £6.5 million

(large company – sentenced in High Culpability/ Harm Category 1 range with an increased starting point)

WH Malcolm Limited applied to appeal the sentencing fine but the application was refused at the Court of Appeal, Criminal Division on 28 April 2022 stating that they were unable to accept the grounds of appeal amount to any arguable basis that the sentence was manifestly excessive.

Costs

£241,463.60

Additional costs awarded after permission to appeal was refused: £31,528.20

Location of offence

Address:

South Head shunt area of Daventry International Rail Freight Terminal, Daventry

ORR details

ORR Team

ORR Directorate: Railway Safety Directorate