

4th April, 1986.

A.G. -v- D.C. Allen Ltd.

(Building Construction Infractions)

DEPUTY BAILIFF: The Court must have regard to the intentions of the legislature and we believe that it was deliberately that the maximum fines had been increased by the legislature.

The Court must have regard to aggravating factors as well as to mitigating ones, and the Court has examined the correspondence which was passed to us and we note that on the 6th April, 1981, and again on the 6th January, 1984, the defendant company was warned because the name of the Safety Officer was not displayed on site. In so far as the second charge is concerned, the Court noted that on the 20th September, 1982, and again on the 6th January, 1984, there was an absence of guardrails or toeboards.

The Court takes the view that there was a real danger here, one which Mr. Allen's presence as Supervisor could not avert. For example, reinforcing bars or mesh had been laid, they are visible on photographs four and five, and therefore it was not just the spreading of concrete that exposed men to danger, but quite a lengthy operation, and again if the pipe had moved in any way, and struck a man, that man would have had no protection whatsoever to prevent him falling. The Court does not accept the explanation about the 1979 conviction, indeed, overall, the Court has considered whether the fines requested by the prosecution are sufficient, but having regard to the fact that this is a first prosecution since the law was changed, has decided not to vary the conclusions, and therefore the defendant company is charged in respect of Charge 1, fined £250, and in respect of Charge 2 is fined £2,500, and is also ordered to pay costs in the sum of £250.

D. C. Allen Limited

The conclusions are granted. The Court must have regard to the intentions of the legislature and we believe that it was deliberate that the maximum fines have been increased by the legislature. The Court must have regard to aggravating factors as well as to mitigating ones and the Court has examined the correspondence which was passed to us, and we note that on the 6th April, 1981, and again on the 6th January, 1984, the defendant company was warned because the name of the Safety Officer was not displayed on site, and insofar as the second charge is concerned, the Court has noted that on the 20th September, 1982, and again on the 6th January, 1984, there was absence of guard rails or toe boards. The Court takes the view that there was a real danger here as is clearly visible in photographs 4 and 5 and not just in the spreading of concrete but in another much lengthier operation, and if the pipe had moved in any way that man could have been injured. The Court further does not accept the explanation about the 1979 conviction. Indeed, the Court has considered whether the fines, as requested by the prosecution are sufficient, but having regard to the fact that this is the first prosecution since the Law was changed, has decided not to vary the conclusions and therefore the defendant company is charged in respect of Charge 1 £250, in respect of Charge 2 £2,500, making a total fine of £2,750 plus costs in the sum of £250.

Counsel Adv. T.A. Dorey asks for time to pay on behalf of his client at the rate of £500 per month which the Court accepts as reasonable and so ordered.

JUDICIAL 22 JUL 1986
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