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## **Supervisor Sentenced to Five Years in Prison Following Fatal Workplace Accident**

March 2025

In a decision released last year,<sup>1</sup> the Ontario Superior Court of Justice found a supervisor guilty of criminal negligence following a fatal single vehicle collision involving his direct report. The supervisor has now been sentenced to five (5) years in prison under Canada's *Criminal Code*.<sup>2</sup> The sentence is among the harshest in Canadian history for workplace negligence, and a marked departure from sentences more recently imposed on supervisors – 3 to 3.5 years.<sup>3</sup> To date, few workplace incidents have resulted in criminal charges, let alone a five-year jail sentence.

Why was this case different and what lessons can employers learn from this tragedy?

### **What happened?**

The employer, a common law couple, operated a small trucking company in rural Ontario. Denis Garant, an employee with just over one week of service with this employer, was hired to drive and operate a dump truck.

One evening, Garant reported to his supervisor, Milton Urgiles, that he believed his truck's steering was not working properly. These concerns were not addressed. Instead, Urgiles gave Garant a driving assignment for the next day. Roughly five hours into the drive, the front left tire of the truck exploded causing Garant to veer across the oncoming lane, strike a tree, and land into a ditch. He died instantly.

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<sup>1</sup> *R. v. Urgiles*, 2024 ONSC 3382

<sup>2</sup> Sentencing reasons have not yet been released.

<sup>3</sup> See *R. v. Kazenelson*, 2018 ONCA 77 and *R. v. King*, 2025 NBCA 12.

A post-accident examination of the tires showed they were bald and in bad repair. Uncontradicted expert evidence given at trial was that the truck should not have been on the road and improper maintenance caused the tire's failure.

### **Criminal negligence**

Urgiles was charged with, and ultimately convicted of, criminal negligence causing death under section 219 of the *Criminal Code*. The standard for criminal negligence is that an individual, in doing or omitting to do anything that is their duty, showed "wanton or reckless disregard for the lives or safety of other persons." There is no requirement to prove the conduct was "deliberate" or "willful." However, the defendant's conduct must be a "marked and substantial departure" from what a reasonably prudent supervisor would do in the circumstances. The act or omission need not be the primary cause of death so long as it is a contributing cause of death.

Section 217.1 of the *Criminal Code* states:

Every one who undertakes or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

Section 219(1) states:

Every one is criminally negligent who

- a) in doing anything, or
- b) in omitting to do anything that is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

(2) For the purposes of this section, "duty" means a duty imposed by law.

### **The trial**

The trial judge addressed five questions:

1. Did Urgiles have authority to direct how Garant did work?
2. Did Urgiles fail to take reasonable steps to prevent bodily harm to Garant?
3. If so, did Urgiles show wanton or reckless disregard for Garant's life and safety? Was his conduct a marked and substantial departure from the standard of a reasonably prudent supervisor in the circumstances?
4. If so, has the Crown proven the requisite degree of fault for criminal negligence?
5. If so, did Urgiles' criminal negligence cause Garant's death?

The trial judge answered all five questions 'yes.'

In reaching these conclusions, the court found that Urgiles, as Garant's supervisor, had a duty to ensure the truck was road-worthy in all respects, regardless of whether there was a complaint. Urgiles failed to satisfy this duty. Among other things, the poor condition of the tires could easily be observed yet went unaddressed, as did the steering issue raised by Garant.

The trial judge made the following important findings:

[167] Mr. Urgiles knew that tires can fail and that if they do, the consequences can be fatal. He knew that the proper function of a commercial vehicle's steering is critical to the safety of the driver. Common sense dictates that losing control of a dump truck can be fatal and/or cause bodily harm. Mr. Urgiles acknowledged this in his evidence when he stated that it is "every driver's nightmare." He failed to notice that the front tires were practically bald. He directed Mr. Garant to drive the truck. He took no steps to ensure that the tire tread depth complied with Regulation 625 of the [Highway Traffic Act](#) when anyone looking at the tires could see that they were bald. Mr. Urgiles' omissions show a wanton and reckless disregard for Mr. Garant's life. His conduct was a marked and substantial departure from the conduct of a reasonably prudent supervisor in the circumstances. He gave no thought to the obvious and serious risk and the need to take care. The risk of serious bodily harm was foreseeable.

[168] Mr. Urgiles had a duty under s. 217.1 of the *Criminal Code* as Mr. Garant's supervisor to take reasonable steps to prevent bodily harm to him arising from Mr. Garant's work as a driver for Ecuacan. Mr. Urgiles knowingly failed to take the action required of him by law: to take the Freightliner to a licenced mechanic, for inspection and repairs after Mr. Garant complained about the Freightliner's steering. Rather, Mr. Urgiles directed him to drive the Freightliner less than 12 hours after the complaint. Mr. McLaughlin stated that the Freightliner's steering would be directly impacted by the condition of the tires. He testified that anyone walking toward a truck or around it can see whether there is any tread on the tires.

[169] I am convinced beyond a reasonable doubt that Mr. Urgiles was criminally negligent.

...

[172] A reasonable supervisor would have contemplated the risk of tire failure from inadequately maintained bald front tires. It was an objectively foreseeable risk. ...

[173] But for Mr. Urgiles' failure to maintain the front tires, the Freightliner's front left tire would not have exploded. The collision would not have occurred. Mr. Garant would not have died. I am convinced beyond a reasonable doubt that Mr. Urgiles is guilty of criminal negligence causing death.

## Lessons learned for employers

The outcome in *R v Urgiles* punctuates the seriousness of health and safety in the workplace. With harsher sentences on the rise, courts are making it clear that workplace negligence is not just a regulatory issue – it is a criminal offense.

At the very least, employers must remember the following:

- An employer’s/supervisor’s duties are defined not only by provincial health and safety legislation, but also by the *Criminal Code* under which significant jail time can be ordered.
- Everyone who undertakes or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.
- The duty to take reasonable steps does NOT depend on whether there is a complaint. This is an independent duty.
- At a minimum, protocols should be in place to receive and address safety concerns in the workplace, promptly and appropriately.
- In several Canadian jurisdictions,<sup>4</sup> an employer is legally required to appoint a “competent person” as a supervisor. In Ontario, this means someone who is “qualified due to knowledge training and experience to organize work, familiar with the law governing workplace health and safety, and knowledgeable regarding actual and/or potential workplace dangers.”

The health and safety team at Sherrard Kuzz LLP regularly advises and represents employers regarding their obligations under provincial occupational health and safety legislation and the *Criminal Code*. We assist clients to develop policies and joint health and safety committees, conduct workplace audits and investigations, respond to stop work orders, inspections, external investigations and charges, and implement discipline and other enforcement mechanisms.

**To learn more and for assistance, contact your Sherrard Kuzz LLP lawyer or [info@sherrardkuzz.com](mailto:info@sherrardkuzz.com). Luiza and Keith can be reached at 416.603.0700 (Main), 416.420.0738 (24 Hour) or by visiting [www.sherrardkuzz.com](http://www.sherrardkuzz.com).**

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<sup>4</sup> [“Health and Safety Legislation in Canada – Competent”](#)

Canadian Centre for Occupational Health and Safety, (January 25, 2023)