

IN THE CENTRAL CRIMINAL COURT

REX

-v-

ANTHONY O’CONNOR (TOC)
APPLEDORN DEVELOPMENTS LTD (Appledorn)
T VAUGHAN LIMITED (TVL)

SENTENCING REMARKS

These remarks will be uploaded after the hearing.

1. On 16th April 2026, Appledorn Developments Limited (Appledorn) and T Vaughan Limited (TVL) were each convicted of failing to discharge a duty, contrary to section 33(1)(a) and section 3 of the Health and Safety at Work Act 1974.
2. Anthony O’Connor, in your case, the jury was unable to reach a verdict on count 2 (manslaughter). On 22nd May 2026, following a ‘Goodyear indication’, you entered an acceptable plea to count 2A, that is, failing to discharge a duty, contrary to section 33(1)(a) and section 7 of the Health and Safety at Work Act 1974.
3. The case was adjourned for the preparation of sentencing notes and a pre-sentence report, and I have been greatly assisted by these documents.

Gheorgita Arsene

4. On 24th June 2020, Gheorgita Arsene was fatally crushed as he worked in an unsupported deep trench on a construction site. Mr Arsene was 33 years old [DOB

31.3.1987]. The loss of his life was a terrible tragedy, particularly as it was entirely avoidable. In a moving victim personal statement, Mr Arsene's mother says that, *"Gheorgita was a good man who worked hard and achieved everything through his hard work, and he sought to support his family."* She recalls the last conversation that she had with her son. He told her that he was working in a deep trench and he was afraid that the banks would collapse. She told him not to go in there, but he said that maybe nothing would happen and it would soon be over. Sadly, he was wrong. Following her son's death, her husband died of a heart attack in 2024. Mrs Arsene now suffers from depression and has a constant feeling of loneliness. She says that everyone in the family is devastated by Gheorghita's death.

Facts of the case

5. I turn to the facts of the case. For the avoidance of doubt, if I make any finding of fact, I do so on the basis that I am satisfied to the criminal standard.
6. The fatal accident occurred at about 1.30pm on 24 June 2020 at the Banstead site, when Gheorghita Arsene was repairing a section of pipe known as section 70.
7. Appledorn was the Principal Contractor at the site. They were responsible for constructing a care home ("Woodstown House") for their customer. Appledorn had appointed TVL to carry out groundworks at the site, as they (TVL) were experienced sub-contractors in this field. Anthony O'Connor was the contracts manager at TVL. As the contracted work did not relate to deep excavations, the initial risk assessment and method statement ("RAMS") prepared by TVL did not refer to such work.
8. By April 2020, it was apparent that there were issues with the drainage at the site, and Appledorn, through their contracts manager, Mark Dodgson, asked Anthony O'Connor to help resolve these issues. TVL instructed a third-party company to conduct a CCTV survey of the drains. The first survey took place in May 2020. It was agreed that the works recommended by that first survey would be carried out by TVL as 'dayworks', i.e., as additional work that was not included in the original contract, but for which daily rates of pay were agreed within the contract.

9. A follow up survey was carried out on 11th and 12th June 2020. The part of the second report which dealt with the pipe at section 70 erroneously duplicated the first report. However, it is clear that TVL's supervisor, Mr Medves, was told that section 70 needed to be repaired as a job sheet to that effect was created on 12th June 2020. Furthermore, he was made aware that this required deep excavation, because he ordered the requisite materials and plant through a member of staff in the TVL office, and his Whatsapp exchange referred to the need to dig about "3m down". Anthony O'Connor had a conversation with the survey company on 15th June 2020, and emails were exchanged between Mr O'Connor and the survey company on 15th and 16th June 2020.
10. The deep trench excavations commenced on 19th June 2020. They were carried out using TVL workers, plant and materials, and following the second survey which had been commissioned by TVL.
11. Considering all of the evidence, there is an irresistible inference that Anthony O'Connor (thus, TVL) would have been aware, prior to 24th June 2020, that deep excavations were to take place.
12. Appledorn's Managing Director, Gareth Rogers, and the Contracts Manager, Mark Dodgson, were both aware that pipes were being repaired in deep unsupported trenches, because they had been sent photographs on 22nd June 2020 which clearly showed this. They did not ensure that a risk assessment and method statement (RAMS) were in place, nor did they do anything to stop the works or ensure that they were carried out in a safe and proper manner.
13. Anthony O'Connor, you attended the site on 22nd June 2020. You attended again on 24th June, at around 12.30pm, about an hour before the accident. You saw the depth of the unsupported trench and you told Daniel Plitan that the trench looked alright but that he and the other workers were to be careful. You did not ensure that a proper risk assessment or method statement was in place prior to the excavations taking place, you did not ensure that the trenches were supported or battered back and you did nothing to stop the work continuing on 24th June, although it was obvious to you that it was not being carried out safely.

14. An hour after your visit, Gheorgita Arsene was excavating earth from the bottom of a trench that was approximately 3 metres deep. The side of the trench gave way, collapsing on Mr Arsene and burying him in earth. It was not possible to remove the earth from him or to extract him from the trench. He died of acute respiratory failure.

Interviews

15. Anthony O'Connor, you were interviewed in December 2020 and October 2021. Putting matters shortly, you denied any wrong-doing.
16. Appledorn's senior management team provided statements and were called as prosecution witnesses. They did not accept liability for the accident.
17. Thomas Vaughan, the Managing Director of TVL was interviewed. He provided detailed answers to the questions. He made it clear that it was wrong that Mr Arsene had been required to work in these conditions. Before he was informed of the evidence concerning Anthony O'Connor, he had thought that no one in a supervisory capacity at TVL had knowledge of the deep excavations. He stated that he did not have any knowledge of, or control over, the deep excavations.

Anthony O'Connor

18. I have considered the relevant Sentencing Council Guideline in relation to an offence contrary to sections 33(1)(a) and 7 of the Health and Safety at Work Act 1974. The maximum sentence for this offence is 2 years' custody.
19. At the time of seeking a 'Goodyear indication', the parties agreed on the categorisation of the offence. That position has not altered, although there is some disagreement on the applicable factors.
20. The case falls into 'high' culpability. I am satisfied that you had actual foresight of the risk of offending, but the risk was nevertheless taken.

21. The case falls into Level A for the initial harm category, because there was a risk of death created by the offence, and harm category 1, because there was a high likelihood of death.

22. I am satisfied that the two others factors set out in the guideline also apply, that is:

- (i) A number of workers were exposed to the risk of harm, because Daniel Plitan had also worked in deep unsupported trenches and Victor Lungu worked in a digger at the very edge of trench so that the arm of the machine could dig as deep as possible.
- (ii) The offence was a significant cause of actual harm, albeit that the offending of the other defendants contributed to the actual harm.

23. The starting point for an offence in this category (high culpability and category 1 harm) is 1 year's custody with a category range of 26 weeks' to 18 months' custody. There will be an upward shift to reflect the two additional harm factors.

Aggravating Factors

24. There are no statutory aggravating factors or other aggravating factors as set out in the guideline.

25. The first two aggravating factors advanced by the prosecution, that is, Mr Plitan's evidence as to conversations that he had with you, are matters which I have taken into consideration in the categorisation, and I will not double-count these features. I am also not persuaded that I should take into account Mr Plitan's belief that if he stopped working in the deep unsupported trenches, he might not be given work in the future. Whilst it may have been a reasonable concern on his part, there is no evidence that anyone at TVL (or Appledorn) said or intended that future work would be withdrawn in those circumstances, therefore, it would be wrong to sentence any defendant on the basis of Mr Plitan's concerns in this regard.

Mitigating Factors

26. You are 42 years old (DOB 12th September 1983). You are a man of exemplary character, as is clear from the many character statements before the court, some of which were read during the trial.
27. I also bear in mind the fact that you are in work and that you have two young daughters who are dependent on you.
28. I have considered the contents of the pre-sentence report. I note that there is a low risk of you re-offending.
29. This case clearly crosses the custody threshold. I will impose the least sentence commensurate with the seriousness of the offence.
30. In my assessment, balancing out the upward shift for the additional harm factors and the reduction for your mitigation, the appropriate custodial term would be 1 year's custody, which is the starting point for the offence.
31. In relation to credit for your guilty plea, I bear in mind paragraph F3 of the Sentencing Council Guideline on credit for guilty pleas. You have pleaded to a 'different offence' from that which was originally charged. You did not offer a plea to this offence until the conclusion of your trial, although count 2A was not on the original indictment. The prosecution agree that the court should allow some credit, somewhere between 10 – 25%. In the circumstances, it is my assessment that there should be some credit for the plea, I will allow a little more than 15%.
32. I reduce the sentence to 10 months' custody. I have already given an indication that I will suspend your sentence. In any event, in these circumstances, there is a presumption in favour of suspension for a term of this length. It will be suspended for 18 months. There will also be a requirement that you undertake 150 hours of unpaid work.
33. I must explain the effect of the sentence. If you commit any offence during the next 18 months, you will be brought back to court and it is highly likely that the sentence of 10 months' custody will be brought into operation, in full or in part.
34. If you fail to comply with the unpaid work requirement, you will be in breach of the

sentence and you will be brought back to court. Again, the custodial term may be activated so that you go to prison. Alternatively, the length of suspension may be extended, or the terms of the order may be made more onerous.

35. The victim surcharge applies and an appropriate order will be drawn up.

Appledorn

36. Appledorn have been unrepresented throughout the proceedings. The company went into voluntary liquidation in 2023. On the application of the CPS, the High Court ordered that the dissolution of Appledorn be suspended until June 2027. As the prosecution observe, the fact that the company is in liquidation does not prevent the imposition of an appropriate fine. It is right that a fine should be imposed, because the offence occurred before the company went into liquidation. Furthermore, the alternative would be an absolute discharge, which would be wholly inappropriate. I will now determine what that fine will be.

37. I have considered the relevant Sentencing Council Guideline for an offence contrary to section 33 and 3(1) of the 1974 Act. This guideline applies to both Appledorn and TVL.

38. The offence in count 4 falls within 'High' culpability, because Appledorn fell far short of the appropriate standard. The following examples in the guideline apply:

- i) failing to put in place measures that are recognised standards in the industry (namely, trench supports or other measures, such as battering back);
- ii) ignoring concerns raised by others, namely, concerns raised by Mr Plitan to Mr Wraith (Appledorn's site manager);

39. The excavation works had been carried out over 5 days including the day of the collapse. Whilst this was not a transitory breach, I do not consider that it amounts to a breach which subsisted over a 'long period of time' for the purposes of the guideline.

40. There was also serious and systemic failure within the organisation to address risks to health and safety.

41. The case falls into Level A for the initial harm category, because there was a risk of death created by the offence, and harm category 1, because there was a high likelihood of death.
42. I am satisfied that the two other harm factors set out in the guideline also apply, that is:
- (i) A number of workers were exposed to the risk of harm, for the reasons already stated.
 - (ii) The offence was a significant cause of actual harm, albeit that the offending of the other defendants contributed to the actual harm.
43. The guideline requires me next to consider the organisation's annual turnover or equivalent to reach a starting point for a fine. There are no current financial statements available, for obvious reasons, but those for 2020 - 2022 support an inference that Appledorn was (at least) a 'small organisation' with an annual turnover of between £2 million and £10 million.
- 44. For an offence of high culpability and harm category 1, the starting point is a fine of £250,000 and a range of £170,000 - £1,000,000.**
45. There are no statutory aggravating factors.
46. There are other aggravating factors within the Guideline:
- (i) There was cost-cutting at the expense of safety. Appledorn were under some pressure to complete the works, as they were behind schedule. The company were expecting payment of the retention element of the contract upon practical completion. I am satisfied that their failure to ensure that a safe system of work was put in place was motivated by the desire to get the works done quickly and cheaply.
 - (ii) There was deliberate concealment of the illegal nature of the activity. The evidence clearly established that the company sought to obtain building control consent by failing to disclose the late issue that had arisen in relation to the drainage system, and the company provided earlier diagrams of the pipes that did not reveal their true condition as at June 2020.

47. The senior management were clearly aware that workers were repairing pipes in unsupported deep trenches, as they had been sent photographs prior to 24th June.
48. The only mitigating factors are the company does not have previous convictions, and there is no evidence that the company had anything other than a good health and safety record.
49. In light of the additional harm factors and the serious aggravating factors, there will be a significant uplift from the starting point for the fine. There will be a reduction for the mitigating factors. Taking account of all of these factors, it is appropriate to move up from the starting point.
50. The guideline requires me to carry out a 'step back' review, having regard to a number of factors. These do not apply to Appledorn as the company is no longer trading.
51. The sentence in the case of Appledorn is a fine of £500,000.

TVL

Culpability

52. There is substantial disagreement between the parties as to categorisation of the offence. I have carefully considered all that has been said, so eloquently, by counsel for the prosecution and the defence.
53. There is a 'high' culpability factor, because TVL fell far short of the appropriate standard by failing to put in place measures that are the recognised standard for the industry.
54. However, I have reminded myself of the evidence heard at trial about TVL's approach at other sites.
55. The failings at the Banstead site were not the norm for TVL and I do not consider that there was a serious or wider systemic failure within the organisation to address risks to health and safety. The failings did not go beyond the deep excavations at the Banstead site. On the contrary, this offence marks a departure from the normal care that TVL

takes in relation to health and safety, which has been set out in detail in the defence note, supporting documents and oral submissions.

56. In light of all of the evidence, I am satisfied that ‘systems were in place, but these were not sufficiently adhered to or implemented’. That is a medium culpability factor.

57. In all of the circumstances, a fair assessment requires me to place this in ‘medium’ culpability with some upward adjustment within the category range to reflect the presence of a ‘high’ culpability factor.

Harm

58. I am satisfied that the offence falls into Level A for the initial harm category, because there was a risk of death created by the offence (i.e. the failure to ensure that a risk assessment and method statement (RAMS) was in place and that the deep excavation works were carried out using appropriate safety measures), and harm category 1, because there was a high likelihood of death arising from TVL’s failure to ensure that those safety measures were put in place.

59. The other two factors in the guideline also apply.

- (i) A number of workers were exposed to the risk of harm, for the reasons already stated.
- (ii) The offence was a significant cause of actual harm, albeit that the offending of the other defendants contributed to the actual harm.

60. There is no dispute that TVL is a ‘medium organisation’ with an annual turnover of between £10 million and £50 million.

61. For an offence within this category, the starting point is a fine of £540,000 and a category range of £300,000 - £1,300,000.

62. There are no statutory or other aggravating factors as set out in the guidelines.

63. I am not persuaded that the other aggravating factors contended for by the prosecution should be applied in TVL’s case for reasons advanced by the defence.

64. As to mitigating factors:

- (i) TVL has no previous convictions.
- (ii) The company fully co-operated with the investigation.
- (iii) There is evidence that the company takes its health and safety obligations seriously. Since 2017, the company has spent a total of almost £3 million on health and safety measures. I bear in mind that the failings that occurred in this case are the result of acts or omissions by personnel at Mr O'Connor's level and below. At its most senior level, the company has demonstrated a very responsible approach. As I have already stated, there was evidence before the court that TVL used the appropriate safety measures at other sites. As Mr Popat KC rightly submits, this offence was not symptomatic of TVL's approach; it was an outlier.

65. There must be a substantial uplift for the additional harm factors. There must also be downward adjustment because of the significant mitigating factors. In my assessment, that would result in a fine somewhat above the starting point.

66. I have carried out a 'step back' review as required by the guideline (step 3). I have considered whether the proposed fine based on turnover is proportionate to TVL's overall means.

67. I have been provided with detailed accounts for the year ending January 2021 through to the year ending January 2026. I have been taken through these documents. The company's profitability has fluctuated, but the average profit margin over the last 3 years has been relatively low at 7.6%.

68. I have considered the company's current financial position, as set out in documents served on Monday. It is clear that the company is in a relatively difficult financial position for reasons identified in the emails. I have also had regard to the fact that the company did not make any financial benefit from this breach.

69. Deterrence is a matter to be considered at this stage. The available material suggests that the company has responded appropriately to this terrible accident and a punitive fine is not appropriate or necessary.

70. Having regard to all of the matters before the court, the appropriate fine in the case of TVL is £650,000. This is still above the starting point for the category range, but I am satisfied that it fairly reflects all of the factors that I have set out in these sentencing remarks.
71. There is no application for compensation, in light of the payment that TVL made to Mr Arsene's mother and the payment towards other funeral related costs.
72. There is an application for a contribution towards the costs in relation to TVL in the sum of £67,780. The application was made belatedly when the case was listed for sentence on Monday morning. The claim makes allowance for the fact that there were five defendants overall. Mr Popat KC sensibly and reasonably does not take a point on the lateness of the claim, although submissions are made as to some of the items on the list.
73. I will make a reduction to reflect the fact that the prosecution of the other defendants, and particularly those facing a manslaughter allegation, accounted for a substantial amount of the time and cost. The case against TVL would have been significantly shorter as there would have been a far more limited challenge to the evidence. Therefore, a straightforward apportionment of one fifth of the cost would not be fair.
74. In my view, £40,000 is a fair proportion of the costs claimed.
75. Having heard submissions from defence counsel, I will allow time for payment of the fine. It will be paid in equal annual instalments over a 6-year period. The first payment to be made on 1st December 2026.
76. Mr O'Connor is allowed 28 days to pay the victim surcharge.

HHJ Judy Khan KC
Central Criminal Court
9th September 2026