



The City of New York
Department of Investigation

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**DOI STATEMENT ON CONVICTION OF AN EXCAVATION COMPANY SUPERVISOR
IN 2015 DEATH OF CONSTRUCTION WORKER IN MEATPACKING DISTRICT**

Mark G. Peters, Commissioner of the New York City Department of Investigation ("DOI"), issued the following statement on the conviction of WILMER CUEVA, a former foreman at SKY MATERIALS CORP., on charges of criminally negligent homicide and reckless endangerment in connection with the death of Sky employee Carlos Moncayo who was crushed in a trench collapse on Ninth Avenue. After a jury trial, the defendant was convicted in Manhattan Supreme Court of failing to heed and address repeated warnings about unsafe work conditions at the construction site. He is scheduled to be sentenced on December 15th. The office of New York County District Attorney Cyrus R. Vance, Jr., prosecuted the case.

DOI Commissioner Mark G. Peters said, "Today's verdict continues to demonstrate to the construction industry and to supervisors on construction sites that putting lives at risk by cutting corners and compromising safety will have serious consequences. This tragic death was preventable, had Cueva stood up for integrity and ensured workers were removed from the dangerous conditions. I commend District Attorney Vance and his dedicated team on the successful prosecution of this important case."

CUEVA, 51 of Elmwood Park, N.J., was convicted of one count of Criminally Negligent Homicide, a class E felony; and four counts of Reckless Endangerment in the Second Degree, a class A misdemeanor.

According to the investigation and indictment, on April 6, 2015 in the hours leading up to Moncayo's death, multiple warnings were issued by professional engineers at 9-19 Ninth Avenue in the Meatpacking District, hired to conduct inspections of the construction site. The inspectors identified numerous issues with respect to workers' safety, specifically that a trench was unprotected, unfortified and could endanger workers inside. Work in the trench, however, continued at CUEVA's direction for nearly two more hours after the original warning was given. At approximately 11:50 a.m. the trench collapsed, killing Moncayo.

Three additional defendants, ALFONSO PRESTIA, HARCO CONSTRUCTION LLC. and SKY MATERIALS CORP., were also charged in the case. HARCO was convicted in June 2016 of the top count of Manslaughter in the Second Degree, as well as Criminally Negligent Homicide and Reckless Endangerment, and sentenced in July. The cases against SKY MATERIALS and ALFONSO PRESTIA are pending.

DOI Commissioner Mark G. Peters thanked Manhattan District Attorney Cyrus R. Vance, Jr. and his staff for their successful prosecution of this matter. DOI also thanked the Occupational Safety and Health Administration and the New York City Police Department for their assistance in this investigation.

The investigation was conducted by DOI, specifically Chief Investigator James McElligott, Chief Investigator Barry Romm, Assistant Inspector General Tiffany Dumas, Director of the Computer Forensics Unit Erskine Fleming, under the supervision of Inspector General Gregory Cho, Associate Commissioner James Flaherty, Deputy Commissioner and Chief of Investigations Michael Carroll and First Deputy Commissioner Lesley Brovner.

The case was prosecuted by Assistant District Attorney Diana Florence, Attorney-in-Charge of the Construction Fraud Task Force and Senior Investigative Counsel of the Rackets Bureau, with the assistance of Assistant District Attorney Carey Ng, under the supervision of Assistant District Attorney Judy Salwen, Principal Deputy Chief of the Rackets Bureau, Assistant District Attorney Jodie Kane, Chief of the Rackets Bureau, and Executive Assistant District Michael Sachs, Chief of the Investigation Division.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

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