

Stelco and contractor John Kenyon avoid trial over two Ontario worker deaths with plea deal

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On April 25, 2023, Gabriel Cabral, 32, and Sean MacPherson, 56, were replacing siding on a quench tower at the Stelco steel mill in Nanticoke, Ontario as part of a \$40,000 project for their employer, Hamilton-based cladding and roofing company John Kenyon Ltd. In the process of completing their task, both men were severely burned and would later die of their injuries.

The horrific incident gained renewed attention earlier this month, when John Kenyon pleaded guilty to one of four charges in order to reach a plea deal and avoid a trial that would have provided a platform to get to the bottom of the murky circumstances surrounding the workers' deaths.

John Kenyon and Stelco were charged with eight detailed offences by the Ontario Ministry of Labour in June 2024 after a year-long investigation, but none of these charges will now be examined by a court of law. Instead, John Kenyon received a wrist-slap fine of around \$281,000, and Stelco got away scot-free. The workers' families continue to grieve with many unanswered questions.

An agreed statement of facts that was part of the plea deal outlined the events leading up to the fatal workplace incident.

Cabral and MacPherson were working on a quench tower that is part of the coke cooling process at Stelco's Lake Erie Works. The coke, which is a fuel used to melt iron ore in the steel making process, is transported by a rail and trolley system to the quench tower. There, water is poured on the fuel to cool it before it can be used in a blast furnace. The resulting steam is released through the quench tower.

Set to automatic delivery mode that day, the mogul car which moves the coke requires 60-90 seconds each to load the coke into the car, travel to the tower and quench the load. This process is repeated about every 23 minutes. While the car is in automatic mode, it is not possible to stop it once it has left the coke oven.

The two men were working on the exterior of the tower from a boom lift—with controls in the lift and backup emergency controls on the ground. A warning signal was to be given at the start of the mogul loading process, at which point the boom lift basket was to be moved away from the quench tower. A second warning signal would indicate that the mogul car was leaving the coke oven on its way to the quench tower.

Having already replaced three sheets of siding on the tower, the Kenyon workers were proceeding with a fourth when a first warning signal came and was acknowledged to the ground crew at 10:39 a.m. According to the agreed statement of facts read by Crown Attorney Dan Phelan, "For unknown reasons, (they) did not move the boom away from the side of the quench tower at this time."

The second signal came at 10:41 a.m., "which was again acknowledged ... to the ground crew. Again, for unknown reasons, the boom was not moved away. The ground workers did not engage the emergency controls to move the basket away from the danger."

According to the mogul car got to the bottom of the tower, the ground crew shouted at the pair to move the boom basket away, but they didn't. Phelan said, "It appeared to the ground crew that the men in the basket had been trying to finish their work and were about to move the basket away when the quench process initiated."

"The ground crew engaged the emergency controls to move the boom basket, but the pair were still exposed to the steam for almost 9 seconds, sustaining severe burns and injuries."

Gabriel Cabral passed away on May 16, 2023 and Sean MacPherson passed away on November 14, 2023.

Crown Attorney Phelan said the Ministry of Labour's investigation included interviewing workers and reviewing the documentation from both companies. He added, "The boom was inspected, and it was determined that there were no defects."

Placing the blame squarely on the workers, Phelan said, "Based on the findings of the investigation, the Ministry determined that the Kenyon workers did not follow the Stelco procedure correctly. The two deaths would have been avoided had the Kenyon workers moved the basket away from the quench tower at the first signal."

This assessment raises more questions than it answers. There is no explanation as to why the mogul car carrying the hot coke was operating in automatic mode when workers were present in such an obviously dangerous location. Absent as well is any plausible explanation for why the two men would allegedly put themselves in such obvious danger while being keenly aware of the need to strictly follow safety protocols. And this in the middle of the morning on a regular work day without any suggestion that there were any abnormal circumstances.

Even if one accepts the claim that the workers ignored the signals, the question is raised as to whether they were under pressure from John Kenyon, an external contractor, as well as Stelco management, to get the job done quickly. Also not answered is the question of who was responsible for supervising the work and why emergency measures were not immediately taken to move the boom lift basket out of the way when the second warning signal was given. All of these questions and many more could and should have been explored in a public forum provided by a court trial.

Media outlets only began to take notice of the horrific incident following Cabral's death in May 2023. In June 2024, more than a year after the incident, the Ontario Ministry of Labour laid eight charges in total against the two companies—four each against Stelco and John Kenyon. A year long investigation brought multiple charges, which are not lightly made and were in fact very specific, against two well established companies.

Stelco was charged with:

• Two counts of failing to take every precaution reasonable in the circumstances for the protection of a worker. “The defendant failed to ensure that the quench/mogul car was under the direct control of an operator who could ensure that the quench tower was free of workers before proceeding to quench the hot coke,” according to a CBC report. Related to the second count, “The defendant failed to ensure that adequate lunch and/or break periods were scheduled for the quenching process, to ensure that the quenching process did not take place while workers were performing work on the quench tower.”

• Failing to ensure proper measures and procedures were carried out. “The defendant failed to ensure the mogul/quench car was equipped with a device that enabled the operator to stop the car in an emergency,” the ministry said.

• Failing to provide information, instruction and supervision to a worker.

John Kenyon was charged with the same set of charges except one. While Stelco was charged with failing to ensure measures and procedures were carried out properly, John Kenyon was charged with failing to ensure that equipment, materials, and protective devices as prescribed were provided.

“The defendant failed to ensure a worker wore or used such personal protective equipment, clothing and devices as were necessary to protect the worker from the hot steam hazard to which the worker was exposed,” the ministry wrote.

On March 3, 2025, John Kenyon pleaded guilty to the single charge of failing as an employer to take every reasonable precaution to protect its workers. All charges against Stelco were withdrawn along with the remaining 3 charges against John Kenyon.

The joint submission from the Crown, John Kenyon, and Stelco presented to Justice Joseph De Filippis of the Ontario Court of Justice in Cayuga, Ontario, delivered a plea deal that eliminated the prospect of a trial and with it, any real opportunity to understand how the two men were fatally injured.

Justice De Filippis imposed the agreed \$225,000 fine plus the mandatory statutory victim impact surcharge of an additional 25 percent (\$56,250), for a total of \$281,250. The justice claimed that the fine was not “a measure of the lives lost” but meant to hold John Kenyon accountable and deter others.

He added, “It’s a small company, it was a small contract and it’s a substantial fine under these circumstances.” In fact, such fines are nothing more than a business expense that allows companies, especially large corporations, to carry on as usual after workers die on the job.

According to Global News, Cabral and MacPherson were members of SMART, the Sheet Metal Workers & Roofers Local 537, which sent “deepest condolences” to family, friends and coworkers at the time of the incident. No other public statements from the union about the two men are to be found.

“The assumption that Sean and Gabriel risked their lives to finish the job is insulting”

Cabral’s mother, Pam Fraser, said her world was “forever changed” on April 25, 2023. Speaking to the CBC a few days after the court case was dropped, she stated “I want assurance this is not going to happen to another person or family again,” adding “I am just so angry. My son died in vain.”

Fraser subsequently spoke to the *World Socialist Web Site* about the plea deal and the tragedy’s impact on her family:

The assumption that Sean and Gabriel risked their lives to finish the job is insulting. You had 40 years of experience up there between the 2 of them. It states very clearly, for some unknown reason, the boom did not move. The boom was stuck. These employees have risked their lives umpteen times working this coke quench. They were very familiar with what the outcome would be if they did not move. This implication puts fault on their behalf, when the reality is that nobody is that stupid... This comment is very disturbing to the families. I watched my beautiful boy take his dying breath. No mother or family should see their child in this state. The horrific tragedy our families have had to endure is indescribable.

Fraser criticized the companies’ efforts to avoid a trial and the role of the Crown, commenting:

The fact that Stelco used court dates and their money to escalate court dates until they could no longer be charged is pathetic. This comment has put salt in so many wounds in our families and friends who are still very much grieving two senseless deaths. I was told by the Ministry of Labour John Kenyon would only plead guilty if all charges were dropped against Stelco... Why would they care? They had 10 dates booked for trial. April 3 to end of August. I was told they would need at least 30 days to represent both companies in court. There is some law where they have 18 months once charges are laid. We are nearing the 2 year mark. Stelco never even sent us a sympathy card.

I’m really not sure whose side the Crown was on. He pleaded with the judge to be lenient on the fine for John Kenyon as a small company. Who was protecting Gabriel and Sean? I reached out to the union lawyer and he didn’t have the courtesy to return my emails or calls... he certainly didn’t protect them. The business manager of the union was very kind, sad, and empathetic.

I am not a public speaker, but I promised Gabriel I would read my statement. I was told there wasn’t a dry eye in the courthouse.

I will never recover from this. My beautiful boy just went to work and never came home. I thank God he never knew his horrific fate as he never woke up. He was on life support and in an induced coma. I pray he felt no pain.

Pam shared her victim statement with the WSW, which she read out in court as part of the proceedings. It stated in part,

Gabriel was a loving son, brother, boyfriend and friend. He was smart and kind, the type of person who would stand up for what he believed. He was a healthy strong man. He lived a clean life and would train at the gym most days. The only thing he loved more than his family, who he was very protective of, was fishing. His father taught him to fish at age 2 and it began a lifelong passion. He would spend hours in his waders at the Grand River or at Lake Erie, where we had a trailer. He also knew how to cook the best steak you ever tasted.

Gabriel and I were soul mates. He would call me every day during his 45 minute drive home from Nanticoke. That was our special time where we shared everything. I miss those calls...

No legal action can ever bring my son back, but I hope this court recognizes the gravity of this loss and holds those responsible accountable.

Justice to me means ensuring that no other family endures the same heartbreak due to the negligence of unsafe working conditions.

Today and for the rest of my life, I will mourn the loss of my son. Please don't let Gabriel's death be in vain. Please ensure that changes will be made in the workplace and enforced, so that accidents which are 100 percent preventable will not happen. Failure to do so will only result in more needless tragedy. Make sure that when our loved ones go to work, they return safely.

In the event that tragedy strikes ensure that the family is notified and directed in a humane, safe, timely manner. This was not done for me or my family.

Lisa MacPherson, Sean MacPherson's wife, told the media, "I met Sean in the first week of Grade 9. From that moment on, we were inseparable. For 42 years, we built a life together." After her husband was injured, "what followed was a nightmare that didn't end," adding that he endured "seven long months of pain, trying to fight his way back to us."



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