



D32 Spoliation: Willful Loss of Evidence Crime in an Electrocution Case

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Learning Overview: After attending this presentation, attendees will recognize that forensic electrical engineers and accident or crime scene investigators can play an important role in analyzing an electrocution scene as well as assisting first responders and criminalists in determining if willful spoliation could have occurred. The seizure of all relevant materials and artifacts is important and should not be left behind for someone else to destroy. Such artifacts can yield valuable evidence from an electrocution scene.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by contributing to an improved performance of criminalists and engineers involved in an investigation of an electrocution in a civil case. Can the willful loss of evidence lead to criminal indictments?

This case study covers an electrocution in a motor repair shop. The deceased technician was in the process of attaching two test clips to the 480-volt motor that had just been repaired. Upon making the two connections, he was electrocuted and fell to the floor. The assistant eyewitness working next to the deceased technician was of a religious/moral persuasion, which prevented him from applying any form of first aid including mouth-to-mouth resuscitation to the victim. The hard evidence from the scene consisting of test cables, with test clips and insulating boots attached, was turned over to the plaintiff's attorney for the deceased instead of being kept by the Authority Having Jurisdiction (AHJ) over workplace accidents.¹ The subject motor was not examined or retained.

A civil suit was filed by the plaintiff's lawyer against the manufacturer of the red insulating boots which covered the bare 50-ampere test clips. The complaint stated that the red insulating boots were defective and had some form of cuts, holes, or other unspecified defect that allowed contact between the hand and the bare 50-amp clip.

The plaintiff's attorney "lost" the boots, clips, and the wires to which they were attached. The only useful evidence were two photos take upon autopsy of the deceased's hand.

A reconstruction of the electrocution using porcine tissue and identical 50-amp clips demonstrated that the electrocution did not occur due to a slit, cut, or hole in the insulating boot as demonstrated by the burn patterns on the porcine tissue tests. Instead, it was clearly evident that the burn pattern on the deceased's hand and fingers was due to direct contact with the energized bare clips with the insulating boots having been shoved back so as to make it easier to apply the clips to the motor terminals. The deceased obviously forgot to turn off the power to the test clips before making his connections. The accident thus was the result of the deceased's own negligence, not a product liability case.

The law on spoliation (depending on the jurisdiction) says that mere negligence is not sufficient for a spoliation finding. What is required is: (1) that the evidence was destroyed; (2) that the evidence is relevant; (3) legal proceedings were pending; and (4) that the destruction of the evidence was an intentional act of the party, indicative of fraud or intent to suppress the truth.

In the opinion of the defense, spoliation occurred. No motion or hearing on spoliation took place. No criminal proceedings were initiated. The matter settled during trial.

Reference(s):

¹. 2001 NFPA 921 sec.9.3.6.

Spoliation, Electrocution, Evidence