

APRIL 10, 2025 | KEY OSHA CASES EXPLAINED

Key OSHRC Rulings Explained: Secretary of Labor v. Trinity Solar LLC

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Welcome to "Key OSHRC Rulings Explained," a new series in Conn Maciel Carey LLP's [OSHA Defense Report](#) blog, designed to explore significant case summaries of Occupational Safety and Health Review Commission (OSHRC) decisions. This series will provide clarity and context on key OSHRC rulings that have shaped workplace safety standards and compliance obligations under the Occupational Safety and Health Act. Our goal is to provide concise, insightful analyses of these rulings to help employers and safety professionals stay informed about evolving interpretations and enforcement trends, prepare for subsequent compliance obligations, and navigate the legal landscape of workplace safety. We invite you to follow along as we unpack the most impactful OSHRC decisions and their practical implications.

Our first case law summary in the series will cover the *Secretary of Labor v. Trinity Solar LLC, as successor to Trinity Solar Inc.*, OSHRC Docket No. 23-0712 (Dec. 26, 2024).

Executive Summary

Following an employee fall that resulted in a fatality, Respondent Trinity Solar LLC, a company engaged in residential solar panel installation, received an OSHA citation alleging a repeat-serious violation of 20 C.F.R. 1926.501(b)(13) for employee failure to use a fall arrest system when engaged in residential construction activities 6 feet or more above lower levels. Because the Secretary, relying chiefly on inferences rather than facts in the record, failed to establish noncompliance with the cited standard, the citation was vacated.

Procedural Background

Respondent Trinity Solar LLC is a company engaged in residential solar panel installation work. On October 4, 2022, one of Respondent's workers fell during solar panel installation work at a residence located in South Orange, New Jersey. The worker died as a result of his fall. No one witnessed what the worker was doing or saw where he was located immediately before the fall. The worker was wearing a harness at the time of the fall but was not tied off. The Respondent had previously installed rope line and anchors/anchor points on portions of the residential roof planes on which solar panels were being installed.

OSHA was alerted about the fall, and it commenced an inspection of the worksite. The inspection resulted in a

repeat-serious citation alleging a violation of 20 C.F.R. 1926.501(b)(13) for employee failure to use a fall arrest system when engaged in residential construction activities 6 feet or more above lower levels. Specifically, the citation alleged that “employees working on a residential roof, 22-feet above the ground, and 12-feet above the ground, did not utilize any means of fall protection during the process of entry upon and exit from the roof. Violation occurred 10/04/2022.” Respondent filed a timely notice of contest, bringing the matter before the Commission. The case was heard by Administrative Law (ALJ) Judge Carol Baumerich.

The key issues in dispute were whether the Secretary established by a preponderance of the evidence that 29 C.F.R. 1926.501(b)(13) applied to the facts of the case and whether Respondent failed to comply with the standard on October 4, 2022.

Findings of Fact

In October 2022, Respondent was engaged in a solar panel installation on a two-story single-family home in South Orange, New Jersey. The multi-day project involved installing solar panels on two separate roofs of the residence – the upper roof, which was 22 feet high, and the lower roof, which was 12 feet high. Four  workers worked on the upper roof, and two workers worked on the lower roof. The workers accessed each roof using two designated ladders. While working on the roofs, the Respondent’s workers all wore personal fall arrest systems (PFAS) for fall protection.

Each PFAS consisted of several critical parts, a body harness, a lanyard, clips, and in some cases, a “shock pack,” which absorbs the impact of a fall and helps break the fall should an employee fall within six feet. The most critical aspect of the PFAS is that it must be connected to an anchor on the roof to provide protection from falling. On the first day of the project, in accordance with Respondent’s fall protection policy, employees installed anchors on the roofs for use by Respondent’s workers for their PFASs. The anchors were not moved or removed until the entire project was finished (about a week or two after the incident).

At the beginning of each subsequent workday, a team lead connected all the personal rope lines to an anchor on the roof. The rope lines remained on the roof all day, but consistent with the Respondent’s policy, the team lead took them down at the end of the day and returned them to the workers to whom they belonged.

On October 4, 2022, workers climbed the ladders and began work on the two roofs without incident. The decedent, who had worked for Respondent for six years and had an excellent safety record, worked on the upper roof. At some point in the day, all the workers took a lunch break at the same time. After lunch, the decedent fell. It is unknown where the decedent was when he fell – no one saw him on any surface right before he fell. The decedent died as a result of the fall. The decedent was wearing his harness, but it was not connected to an anchored rope line.

After OSHA was notified of the fall, an OSHA inspector visited the worksite, arriving about 40 minutes after the incident. He did not observe any employee working on the roof or elsewhere. He took pictures of the worksite from street level, but did not climb a ladder to take pictures. He also failed to measure the distances between the top of any ladder and rooftop protection items, such as anchors, during the inspection.

Respondent has a fall protection safety program, including training and a robust self-audit monitoring program. Respondent also had two prior Commission final orders of fall protection violations of the cited standard.

Legal Arguments

Application of the Standard: The ALJ noted at the outset that because the Secretary alleged a rooftop fall protection violation in the citation, the Secretary bore the burden of demonstrating that workers were unprotected *on a roof*. The Secretary argued that the preponderance of the evidence established that the decedent “fell while stepping onto the roof,” rendering the standard applicable. The Secretary based her argument on before and after pictures from the worksite that she argued showed that the decedent dented the gutter when he fell and claims that it was “more likely than not” that the decedent fell from the roof rather than the ladder based on previous incident reports held by Respondent. Respondent argued that the record did not establish that the decedent fell from the roof. The ALJ agreed with Respondent, rejecting as speculative the Secretary’s argument based on Respondent’s injury records as tending to show a greater likelihood of falling from the roof rather than a ladder, and noting that the photographs cited by the Secretary were taken from different vantage points and did not clearly show a damaged gutter. Further, Respondent did not make a damage report regarding a damaged gutter during the job, which the ALJ credited as further evidence that there was probably not any damage to the gutter. Accordingly, the ALJ held that the facts surrounding the decedent’s fall did not establish applicability.

Other facts on the record, however, established that Respondent’s workers frequently entered and exited the rooftops from ladders and worked atop the roofs, as alleged in the citation. The ALJ thus found that the construction fall protection standard applied to Respondent’s general practice of ascending a ladder, accessing a roof, and working from a residential worktop, all of which occurred on October 4, 2022, the date of the alleged violation contained in the citation.

Noncompliance: The ALJ found that there was no evidence that any of Respondent’s employees worked on the rooftop at the worksite on October 4, 2022, without fall protection. The decedent’s fatal fall was not enough, by itself, to establish noncompliance with the cited standard. As discussed above, the record did not establish the location from which the decedent fell, and if he fell from a ladder rather than the roof, the cited standard would not apply.

The Secretary argued further that the Respondent must have violated the cited standard because “the placement of the rope lines shows the decedent and other employees were not tied off when entering and exiting the upper and lower roof.” The Secretary asserted that the rope lines connected to the anchors that workers were supposed to reach from the ladder to connect to their PFAS before leaving the ladder to get onto the roof were too far away and therefore Respondent’s workers must have been climbing onto the roofs from the ladder without being protected by PFAS. Respondent argued that the record established no such thing. Indeed, all witnesses testified that the rope lines were reachable from the ladder. The ALJ agreed with the Respondent, pointing to multiple instances of witness testimony that the rope lines must be reachable from the ladders to comply with Respondent’s safety policy and that they in fact were reachable from the ladders. Moreover, as the inspector failed to take measurements, there was no credible or persuasive evidence in the record to rebut the witness testimony on reachability.

The Secretary argued further that at least one worker on the upper roof was entering and exiting the roof without fall protection, assuming one anchor per worker and only one anchor was reachable from the ladder. It was undisputed that each anchored clip was limited to one worker due to weight constraints. The Secretary urged

that the anchor to the right of the ladder on the upper roof was too far away to be reachable by a worker on the ladder. The ALJ rejected this argument as well, noting that the Secretary had failed to address the possibility that one worker ascends onto the roof using one anchored rope line and then switches over to another anchored rope line on the roof, leaving the initial anchored rope line available for the next worker. Respondent's employees had testified that they employed this practice, and the Secretary attempted to elicit adequate contrary evidence from them, but they never fully agreed with her leading questions regarding the issue, thus the court afforded the statements elicited by the Secretary on the issue limited evidentiary weight. Crediting the testimony of Respondent's employees, the ALJ found that the Secretary had failed to establish noncompliance with the cited standards and ordered the citation vacated.

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