

'It's getting deep' man texted before death in trench

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James Rogers' cell phone, recovered after a trench collapse.

By [Mark Gokavi](#)

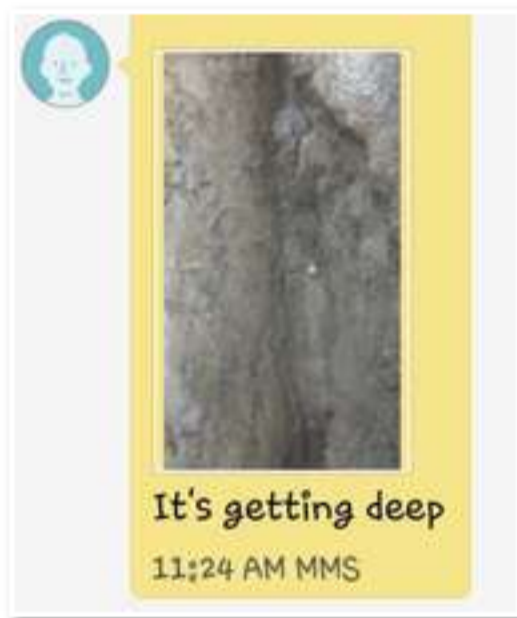
Staff Writer

The last text message James Rogers sent before he died in a Washington Twp. trench collapse said, "It's getting deep."

Accompanying the June 15 text sent at 11:24 a.m. that day was a photo showing that trench, according to an attorney representing his family.

Rogers' girlfriend responded two minutes later with a text that said: "OMG babe be smart!!! And safe." Police reports indicate that 911 was called at 1:44 p.m. and Rogers, 33, of Winchester, died from asphyxiation and "mechanical chest compression," according to Rogers' certificate of death.

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James Rogers' last text message to his girlfriend.

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It took more than seven hours to recover Rogers' body out of a trench that was about 12 feet deep, according to law enforcement officials. [Rogers had posted about a similarly deep trench](#) on Facebook a few weeks before his death when he wrote, "'Never again ant (sic) worth it."

A spokesman for the U.S. Dept. of Labor said Monday that the investigation into the incident is only a month old and that the Occupational Safety and Health Administration has up to six months to complete it.

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Crews searched for several hours Wednesday before they located the buried body of James Rogers, a worker who had a trench collapse on him in Washington Twp. NICK BLIZZARD/STAFF

Spokesman Scott Allen said it would be at least another month or two before it's determined whether anyone was criminally liable. Any prosecution for "lack of proper safety precautions at the job site" would be done by the U.S. Dept. of Justice, Allen said.

"Witnesses put the length of dirt that caved into the 12 foot deep and 7 foot wide hole as approximately 10 feet," said attorney Craig Matthews, who is investigating the case for the family, which is weighing legal options. "That means James was covered by more than 800 cubic feet of clay and wet dirt weighing approximately 91,000 pounds or more than 45 tons."

James' cracked cell phone was recovered along with his body. The text message exchanged was from Rogers' girlfriend, Matthews said.

The owner of KRW Plumbing, Rick Williams, initially "did not tell the truth" about the hole's depth, according to a Montgomery County Sheriff's Office report obtained by the Dayton Daily News. The report indicated that KRW Plumbing's owner initially told deputies the trench on Claxton Glen Court near Marshall Road was seven feet deep.

When OSHA representatives arrived at the new home construction site, Williams "admitted the trench was 12 feet deep," according to sheriff's office records.

A trench five feet or deeper requires a protective system unless the excavation is made entirely in stable rock, according to OSHA.

"From the photo and witness statements, it is clear there were no safety measures in place, as required by law," Matthews said. "Those safety measures almost certainly would have saved his life."

Efforts to reach Williams for comment have been unsuccessful.