

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D15959
O/gts

_____AD3d_____

Argued - June 18, 2007

ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
RUTH C. BALKIN, JJ.

2006-10112

DECISION & ORDER

Kareem Hart, etc., et al., respondents, v
New York City Housing Authority, appellant.

(Index No. 34978/98)

London Fischer, LLP, New York, N.Y. (Herzfeld & Rubin, P.C. [Miriam Skolnick and Linda M. Brown] of counsel), for appellant.

K.C. Okoli, New York, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the defendant appeals from an order of the Supreme Court, Kings County (Schmidt, J.), dated September 8, 2006, which denied its motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the motion for summary judgment dismissing the complaint is granted.

The nine-year-old plaintiff, Kareem Hart (hereinafter the plaintiff), was attending a summer day camp operated by the defendant at a public playground, and was under the supervision of several counselors. The plaintiff was performing back flips on a gym mat while several children looked on. Unknown to the plaintiff, another child, who was not enrolled in the day camp, entered the playground riding a bicycle. While the plaintiff was performing a back flip, the bicyclist rode into his path, and the plaintiff landed on the bicycle, breaking his leg.

The defendant established its prima facie entitlement to judgment as a matter of law by demonstrating that there was adequate playground supervision, and that the level of supervision

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was not the proximate cause of the plaintiff's injuries (*see David v City of New York*, 40 AD3d 572; *Davidson v Sachem Central School District*, 300 AD2d 276). In response, the plaintiff failed to raise a triable issue of fact. Therefore, the defendant's motion for summary judgment should have been granted.

SPOLZINO, J.P., SKELOS, LIFSON and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court