



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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NYPD PREVAILS IN CASE WHERE A MAN TRESPASSING AFTER-HOURS IN A CITY PARK SUES OVER BROKEN LEG

***JURY FINDS FOR THE CITY ON VIRTUALLY ALL COUNTS;
DECISION RECOGNIZES THAT PEOPLE MUST BE HELD ACCOUNTABLE FOR THEIR OWN ACTIONS***

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New York, March 8, 2007 – Two members of the New York City Police Department (NYPD) prevailed in a case late yesterday in which a man trespassing in a park after dark sued the City after he broke his leg while running away from the police officers. The eight-person jury in federal court in Manhattan found for the officers on all virtually all counts.

“Verdicts like these confirm that juries recognize the difficult decisions that police officers face every day,” noted Corporation Counsel Michael A. Cardozo of the New York City Law Department. “It also affirms that suing the City and its employees – even in cases where discussions might take place among the parties – does not mean the City will cave in. Rather, the City will diligently defend the cases at trial.” He added, “Plaintiffs are not entitled to unlimited paydays. We appreciate that juries recognize the importance of protecting the public fisc and that people must be held accountable when their own actions lead to their injuries.”

The matter involved a plaintiff named Forrest Phelps. On April 2, 2004, he had trespassed in Jackie Robinson Park in Manhattan when the park was closed. Officers approached Phelps; but when he saw them, he ran away.

The officers testified that they were in uniform and that, when the plaintiff ran, they called out, “Police, don’t move.” Instead of running out of the park, which he had just entered, Phelps ran deeper into the park and down a steep hill. He then jumped off a brick wall, approximately eight to 10 feet high. In doing so, he sustained a badly broken leg.

Phelps then sued the NYPD for false arrest, excessive force, assault and battery. The jury found for the City on all these counts. The jury did find the officers failed to properly identify themselves, although they were in uniform, but also found the officers did not “proximately cause plaintiff any injury.” Since the officers were not the cause of the plaintiff’s injury, he was not entitled to any money.

“We are pleased that the jury supported the officers’ actions,” noted Hillary Frommer, a Senior Counsel in the New York City Law Department’s Special Federal Division, which tried the case.

“The plaintiff broke the law and, and although he unfortunately injured his leg, we’re grateful that the jury found he was not entitled to compensation from these officers or the City,” added Seth Eichenholtz, who also tried the case with Frommer.

The trial was supervised by Susan Halatyn, a Senior Counsel in the Special Federal Division, and

Doranda Jacques added paralegal assistance.

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