

Appellate Division Affirms Dismissal Of Hudson County Sheriff's Officer's Personal Injury Case Against The State

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In an unpublished decision, Cevallos v. New Jersey Attorney Gen.'s Office (A-4383-17T1), the Appellate Division held that the trial court properly dismissed the plaintiff's personal injury complaint against the defendant, State of New Jersey, New Jersey Attorney General's Office.

The Personal Injury Claim against the State of New Jersey

On November 15, 2013, the plaintiff, a Hudson County Sheriff's Officer, was injured while working the Fugitive Safe Surrender Program at the Jersey City Armory. The State hired a variety of contractors to help with the program, including contractors who constructed a raised platform/walkway to cover electrical wires. Dollies were used as part of the program to transport equipment in and out of the armory. The plaintiff was injured when he stepped onto a wheeled dolly left near the raised platform and the dolly rolled out from under him causing him to fall. The plaintiff testified that he was looking forward and saw the dolly in his peripheral vision but thought it was part of the platform.

In order for a public entity, like the State of New Jersey, to be liable for an injury caused by a condition on public property, the plaintiff must establish, among other elements, that the condition of the property was dangerous. A dangerous condition exists if the condition of the property creates a substantial risk of injury when such property is used with due care in a manner in which it is reasonably foreseeable that it will be used. Based on this requirement, the trial court granted the State's motion for summary judgment and dismissed the plaintiff's personal injury complaint because it determined that the plaintiff had not established any physical defect in the property giving rise to a dangerous condition.

Appellate Court Dismisses Personal Injury Case – Finds Condition of the Property Was Not Dangerous

On appeal, the Appellate Division agreed with the trial court and held that the plaintiff failed to establish that the placement of the dolly near the platform rendered the dolly or walkway a dangerous condition to a person who foreseeably would use the walkway. The Appellate Division focused its decision on the obvious nature of the wheeled dolly and the walkway, including their different colors and surface textures. The Court noted that the wooden dolly was light brown or beige in color whereas the side of the walkway was marked with black and yellow warning tape. Therefore, the Court concluded that the dolly placed next to the walkway was only potentially dangerous to those who did not make observations and the plaintiff had no legal recourse against the State for the injuries he sustained.