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Giordanella v. City of New York

Supreme Court, Appellate Division, Second Department, New York - December 16, 2015 - N.Y.S.3d - 2015 WL 8825545 - 2015 N.Y. Slip Op. 09251

Employee of city department of sanitation brought personal injury action against city after he was assaulted by participant in community service program with rake, alleging city failed to provide proper security. City moved for summary judgment. The Supreme Court, Queens County, granted motion. Employee appealed.

The Supreme Court, Appellate Division, held that:

- City did not owe special duty to employee to provide proper security, and
- City did not owe statutory duty to employee pursuant to statute directing employers to comply with health and safety regulations.

City did not voluntarily assume duty to city employee, who worked for department of sanitation, for injuries he sustained when he was assaulted with rake by community service participant, and thus city did not owe special duty to employee.

City did not owe statutory duty to department of sanitation employee, who was injured when community service participant assaulted employee with rake, pursuant to statute which applies to recognized hazards that are causing or are likely to cause death or serious physical harm to its employees and directs employer to comply with health and safety regulations.

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