



HIGH COURT OF AUSTRALIA

Public Information Officer

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THE TRUSTEES OF THE ROMAN CATHOLIC CHURCH FOR THE DIOCESE OF
CANBERRA AND GOULBURN (AS ST ANTHONY'S PRIMARY SCHOOL) v FARRAH
HADBA BY HER NEXT FRIEND AND FATHER NOUHAD HADBA

A schoolgirl injured after two schoolchildren pulled her legs while on a “flying fox” had failed to make out a case of negligence against the school, the High Court of Australia held today.

Farrah Hadba was eight years old and in Year 3 at St Anthony's Primary School in the Canberra suburb of Wanniasa in February 1999 when she was injured by another child while using the flying fox, an apparatus consisting of a platform and vertical pole at each end, linked by a horizontal pole to which a sliding triangle was attached. A child grasped the triangle, stepped off the platform and slid to the other end. In the six years it had been in use, no serious accidents had occurred on the flying fox. Classes only used the flying fox at rostered times. The school enforced a hands-off rule, requiring children not to touch each other during play, and frequently reminded them of this rule. Farrah's teacher had also explained that no-one was to touch another child using the flying fox. Despite this, two children grabbed Farrah's legs as she grasped the triangle. One child eventually let go but the other held on and Farrah was pulled from the flying fox. Her face struck the platform as she fell to the ground. The teacher on playground duty in the area was checking water bubblers and toilets and ordering children out of a nearby classroom when the accident happened. Four of the school's 20 teachers were on playground duty in assigned sections of the school during each break.

In the ACT Supreme Court Justice Terence Connolly held that the flying fox was not inherently dangerous and that the cause of the accident was the other child continuing to pull Farrah's legs. He was satisfied that the school had fulfilled its duty of care. The Court of Appeal, by majority, allowed an appeal, holding that the school's system of supervision in the play area was inadequate. The school appealed to the High Court.

The Court, by a 4-1 majority, allowed the school's appeal. It held that having more teachers supervising children during recesses so that one teacher could watch the play equipment exclusively was unreasonable and would not necessarily have prevented the accident which happened within a few seconds. There was no evidence of serious accidents on the flying fox or of children pulling each other from the flying fox in breach of the well-known hands-off policy so the risk and probability of injury were not high. Dangers could also arise elsewhere, such as children going into unintended classrooms. Farrah had been unable to show that any reasonably practicable alternative system of supervision would have been more effective.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*