

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Dawson v. Ross

2026 NY Slip Op 02821 (N.Y. Ct. App. 2026) · No. 2024-07296 · Decided May 6, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order granting summary judgment to Walter J. Ross and the City of New York in a personal-injury action arising from a collision between a sanitation truck and a taxi. The court held that the defendants established prima facie that the taxi driver's conduct was the sole proximate cause of the accident, even without relying on an audio recording of the driver's statement, and upheld denial of the plaintiff's motion to preclude the recording.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Valerie Brathwaite Nelson, J.; Barry E. Warhit, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 6, 2026
DOCKET	2024-07296
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting the City defendants summary judgment dismissing the complaint against them and denying plaintiff's cross-motion to preclude use of an audio recording.
STANDARD OF REVIEW	Summary judgment is reviewed under the prima facie burden and triable-issue-of-fact standards; the denial of the motion to preclude the audio recording was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Daymond Dawson v. Walter J. Ross, City of New York

TOPICS

summary judgment

comparative fault

personal injury

negligence

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QUESTIONS PRESENTED

1. Whether the City defendants established prima facie entitlement to summary judgment by showing that they did not proximately cause Dawson's injuries and were free from comparative fault.
2. Whether Dawson raised a triable issue of fact in opposition to the City defendants' summary judgment motion.
3. Whether the Supreme Court providently exercised its discretion in denying Dawson's cross-motion to preclude the audio recording of Cruz's accident-scene statement.

HOLDINGS

1. A defendant moving for summary judgment in a personal-injury action must establish prima facie that it did not proximately cause the plaintiff's injuries and, because an accident may have more than one proximate cause, must establish freedom from comparative fault as a matter of law. The City defendants satisfied that burden by evidence showing that Ross had the green light and right-of-way and that Cruz's conduct was the sole proximate cause of the collision.
2. The Supreme Court providently exercised its discretion in denying Dawson's cross-motion to preclude the City defendants from offering the audio recording of Cruz's statement in support of their motion and at trial.

KEY QUOTATIONS

“Defendants moving for summary judgment in a personal injury action must demonstrate, prima facie, that they did not proximately cause the plaintiff's injuries” ([*2])

“Since there can be more than one proximate cause of an accident, a defendant seeking summary judgment must establish freedom from comparative fault as a matter of law” ([*2])

FACTUAL BACKGROUND

Dawson was a passenger in a sanitation truck operated by Walter J. Ross and owned by the City of New York when it collided with a taxi operated by Heriberto Cruz at an intersection in Queens. The sanitation truck was traveling on a one-way street, the taxi was traveling on a two-way street, and the intersection was controlled by a traffic light. Deposition and 50-h hearing testimony established prima facie that Ross entered the intersection on a green light with the right-of-way, while Cruz entered against a red light.

PROCEDURAL HISTORY

Dawson sued, among others, Walter J. Ross and the City of New York for personal injuries arising from a collision between a sanitation truck and a taxi. The Supreme Court, Queens County, granted the City defendants'

motion for summary judgment and denied Dawson's cross-motion to preclude an audio recording of Cruz's statement. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Fargione v. Chance, 154 A.D.3d 713, 714
- Valdez v. MTA Bus Co., 210 A.D.3d 821
- Wilson v. Mazewski, 175 A.D.3d 1352, 1353
- Kelly v. Pedersen, 241 A.D.3d 804
- Angelill v. Guerin, 219 A.D.3d 556, 558
- Kirby v. Lett, 208 A.D.3d 1174

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