

**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 13-3492

---

MICHELE SCHROLLER  
WILLIAM SCHROLLER,  
Appellants

v.

UNITED STATES OF AMERICA

---

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(No. 2-11-cv-07719)  
District Judge: Honorable Robert F. Kelly

---

Submitted Pursuant to Third Circuit LAR 34.1(a)  
March 27, 2014

---

Before: FUENTES, SHWARTZ, *Circuit Judges*, and ROSENTHAL, *District Judge*<sup>1</sup>

(Filed: May 1, 2014 )

---

OPINION OF THE COURT

---

FUENTES, *Circuit Judge*:

---

<sup>1</sup> The Honorable Lee H. Rosenthal, U.S. District Court for the Southern District of Texas, sitting by designation.

Plaintiffs Michelle and William Schroller appeal the District Court’s dismissal of their case on the ground that the Court lacked subject matter jurisdiction. After exhausting their administrative remedies, the Schrollers brought this case against the United States and the Valley Forge National Park relying for jurisdiction on the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2671 *et seq.* The Schrollers allege they suffered damages when, on October 7, 2009, a tree in the Park suddenly and without warning fell on Michele Schroller as she was walking, hitting her and pushing her to the ground. *See Schroller v. United States*, 2013 WL 3878690, at \*1 (E.D. Pa. July 26, 2013). Schroller suffered a closed head injury with post-concussive syndrome, a fractured skull, a scalp laceration resulting in scarring and disfigurement, fractured teeth, an acute tear of the right rotator cuff, post traumatic vertigo, and other related injuries. *Id.* Schroller’s husband suffered loss of consortium. *Id.* Plaintiffs seek damages in excess of \$150,000. *Id.*

The District Court granted dismissal because it found the “discretionary function exception” (“DFE”) to the FTCA, as outlined in our prior precedent *Merando v. United States*, 517 F.3d 160 (3d Cir. 2008), controlled and immunized the U.S. from tort liability. We recognize that Michele Schroller alleged to have sustained major injuries after the October 7, 2009, incident. However, after a careful review of the record and the parties’ arguments, we find no basis for disturbing the District Court’s persuasive and well-reasoned conclusion.

We therefore affirm the judgment for substantially the same reasons set forth in the District Court’s opinion. *See Schroller*, 2013 WL 3878690.