

ONAYOTE?A·KÁ· TSI? SHAKOTIYA?TO·LÉHTE?
APPELLATE COURT, INITIAL REVIEW

Docket/Parties: # 12-AC-022 Kim Appel vs Andrew Doxtator

Date Filed: November 6, 2012 (Reconsideration)

Date of Initial Review: November 8, 2012

The purpose of Initial Review (IR) is to answer threshold questions regarding the jurisdiction of a case and the procedural and material sufficiency of the Notice of Appeal. IR will determine if a case is ripe for appellate review and if not ripe, will determine which Original Hearing Body (OHB) has jurisdiction. IR may affirm or overturn a single issue decision of an OHB where that similar issue has been settled as a matter of law by previous appellate court decisions. In accordance with the Oneida Nation Administrative Procedures Act, §XI, F and the Oneida Tribal Judicial System, Appellate Court, Rules of Appellate Procedure, the IR body shall accept an appeal when an Appellant **alleges with sufficient clarity** that the OHB **decision** contains one or more of the following elements:

1. ___ A violation of constitutional provisions.
2. ___ The decision is outside the scope of the authority or otherwise unlawful.
3. ___ The decision is clearly erroneous and is against the weight of the evidence presented at the hearing level.
4. ___ The decision is arbitrary and/or capricious
5. ___ There is exhibited a procedural irregularity which would be considered a harmful error that may have contributed to the final decision, which if the error had not occurred, would have altered the final decision.
6. ___ There is presentation or introduction of new evidence that was not available at the hearing level, which, if available, may have altered the final decision.

INITIAL REVIEW DECISION

Judicial Officers Winnifred L. Thomas, Lois Powless, Janice L. McLester presiding.

Not Accepted: This Appellate Initial Review Panel reviewed the Motion for Reconsideration of this body's October 30, 2012 Initial Review decision. The Motion for Reconsideration does not change the fact that their appeal to the Personnel Commission was filed untimely. In addition, the Motion for Reconsideration did not fulfill the criteria set in Judicial Code, Rule 24(B) and (C) Reconsideration, Criteria and Definition for new evidence.

**The Oneida Tribal Judicial System
P.O. Box 19, Suite # 1 Ridgeview Plaza
3759 West Mason Street, Oneida, WI 54155**

Lead Judicial Officer Signature and Date:

Winnifred L. Thomas