

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

**Docket/Parties:** # 13-AC-001 Dale P. Wheelock vs Ed Delgado

**Date Filed:** January 25, 2013

**Date of Initial Review:** February 5, 2013

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, Jennifer Webster, Stanley R. Webster presiding.


**Accepted:** Due to the issues brought forward in this case, the Initial Review Body invokes Rule 19 A (5) of the Rules of Appellate Procedures: Require such other action or further proceedings as may be appropriate to each individual action. This Appellate Court directs the Trial Court of the Oneida Tribal Judicial System to hear the merits of this case as presented by the Appellant in his Notice of Appeal.

*Authority:* The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce this act as well as the responsibility as a government to protect the health, safety, welfare, and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as amended.

Rule 9(D)(5): Initial Review, Criteria for Acceptance, 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.

Rule 19(A)(2): Reversal, Affirmance, or Modification. Remand the matter to the trial court or original hearing body and order a new trial/hearing on any or all issues presented; the order returning a case shall contain specific instructions for the trial court or original hearing body.

**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:**  2/6/2013