

**ONEIDA JUDICIARY**  
**Tsi nu téshakotiya?tolétha?**

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**TRIAL COURT**

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**Oneida Nation / Oneida Police Department,**  
**PETITIONER,**

**v.**  
**James R. Vaughn, Jr.,**  
**DEFENDANT**

**CASE NO: 18-TC-007**

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**DEFAULT JUDGMENT AND CONDITIONAL ORDER**

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This case has come before the Oneida Trial Court, Honorable Denice Beans presiding.

*Appearing in person:* Attorney Kelly McAndrews for the Petitioner: Oneida Nation/Oneida Police Department; OPD Officer Dylan Wheelock.

*Not appearing in person:* Defendant, James R. Vaughn, Jr.

**STATEMENT OF THE CASE**

A citation was issued to Defendant on May 28, 2018 alleging that the Defendant was Bringing/Keeping a Vicious Animal under 304.10-3 of the Oneida Code of Laws. This was the first citation that was issued to the Defendant and it has a mandatory appearance requirement.

The Defendant did not appear at the hearing on August 16, 2018 at 9:00 am. The Petitioner requested that the hearing be set out for another time because this citation involved a “vicious” animal, and the Petitioner did not have information on the status of the animal, and that a Conditional Order be issued. The Court granted the request scheduling the hearing for August 30, 2018 at 10:00 am and issuing a Conditional Order. The Petitioner also noted, on the Record, that the Defendant did comply with the quarantine, veterinarian check, and rabies vaccination updates for the dog known as Kona.

The Defendant did not appear for the hearing on August 30, 2018 at 10:00 am. The Petitioner amended the citation from O.C. 304.10-3 Bringing/Keeping a vicious animal to 304.10-1(a)(1) Harboring a Dangerous Animal. The amendment was read on the Record and a default judgment with conditions was entered.

## FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. On May 28, 2018, Oneida Police Department filed a Citation for violation of O.C. 304.10-3 Bringing/Keeping a vicious animal.
3. Notice was given to all those entitled to notice.
4. A hearing was held on August 16, 2018.
5. The citation violation required a mandatory appearance in Court by the Defendant.
6. The Defendant failed to appear, plead, or defend.
7. Petitioner requested to reschedule the hearing with Conditions, which was granted.
8. A second hearing was held on August 30, 2018 at 10:00 am
9. The Defendant failed to appear, plead, or defend.
10. The Petitioner amended the Citation from a violation of O.C.304.10-3 Bringing/Keeping a Vicious Animal to O.C.304.10-1(a)(1) Harboring a Dangerous Animal.
11. Officer Dylan Wheelock testified to the incident occurring on May 18, 2018 resulting in the Citation issued.
12. The Defendant was found to be in default.
13. The Petitioner requested the maximum fine for first offense Harboring a Dangerous Animal be ordered in the amount of \$500.00, which was granted.
14. The Court adds court costs of \$25.00 for a total amount due of \$525.00 to be paid to the Oneida Judiciary within ninety days.
15. The Court determined that the Defendant is responsible for restitution for medical bills.
16. The Petitioner may notify the Court of any verified restitution and request an Order to Pay.
17. The Petitioner requested conditions (a), (b), (c), (d), (e), (f), (g) with the option to choose (i) of the Domestic Animals Law 304.10.2 to apply, if at any time, the dog known as **Kona** is at the residence of the Defendant who resides at 2919 Commissioner St., Oneida, WI 54155, which was granted.

## PRINCIPLES OF LAW

### **Title 3. Health and Public Safety - Chapter 304 DOMESTIC ANIMALS 304.10. Dangerous Animals**

**304.10-1. *Classifying Dangerous Animals.*** Owners of animals meeting the definition of a dangerous animal shall comply with the requirements contained in section 304.10-2 for harboring dangerous animals.

- (a) For the purposes of this law, an animal is presumed to be dangerous if it:
- (1) approaches or chases a human being or domestic animal in a menacing fashion  
or apparent attitude of attack, without provocation;

**304.10-2. *Harboring Dangerous Animals.*** No person may harbor or keep a dangerous animal within the Reservation unless all provisions of this section are complied with. Any animal that is determined to be a vicious animal in accordance with section 304.10-3 may not, under any circumstances, be kept or harbored within the Reservation.

**(a) Leash and Muzzle.** No person keeping or possessing a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than four feet (4') in length.

**(1)** No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash.

**(2)** The animal may not be leashed to inanimate objects such as trees, posts and buildings.

**(3)** A dangerous animal on a leash outside the animal's kennel must be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. The Environmental Health and Safety Division, with approval of the Environmental Resource Board, may provide a written exception excusing an otherwise dangerous animal from being muzzled. If such a written exception is issued, it shall be carried by the animal's owner always.

**(b) Confinement.** Except when leashed and muzzled as provided in subsection (a) above, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

**(1) Confinement Outdoors.** When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this subsection.

**(A)** The pen or kennel shall be child-proof from the outside and animal-proof from the inside.

**(B)** A strong metal double fence with adequate space between fences (at least two feet (2')) shall be provided so that a child cannot reach into the animal enclosure.

**(C)** The pen, kennel or structure shall have secure sides and a secure top attached to all sides.

**(D)** A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure.

**(E)** The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two feet (2')

**(F)** All structures erected to house dangerous animals shall comply with the requirements of all applicable laws and rules of the Nation.

**(G)** All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

**(2) Confinement Indoors.** No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(c) **Signs.** The owner of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two inches (2") high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner shall conspicuously display a sign with a symbol warning child of the presence of a dangerous animal.

(d) **Spay and Neuter Requirement.** If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner shall within thirty (30) days after the declaration shall provide the Environmental Resource Board with written proof from a licensed veterinarian that the animal has been spayed or neutered.

(e) **Liability Insurance.** If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall present proof to the Environmental Resource Board that the owner has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the Environmental Resource Board.

(f) **Microchipping.** If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall provide proof to the Environmental Resource Board that the dangerous animal has had a microchip inserted for identification purposes within ten (10) calendars from the date the animal is declared dangerous.

(g) **Ongoing Notification Requirements.** After an animal has been declared dangerous, the owner shall have an ongoing duty to notify the Oneida Police Department:

- (1) immediately if the dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being; and
- (2) within twenty-four (24) hours if a dangerous animal has died, been sold or been given away. If the dangerous animal has been sold or given away, the owner shall also provide the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the owner shall present evidence to the Oneida Police Department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner. The Oneida Police Department shall forward all such notifications to the Environmental Resource Board within a reasonable amount of time.

(h) **Waiver by the Environmental Resource Board.** Upon request of an owner, the Environmental Resource Board may waive any requirement specified in subsections (a)- (f) that the Environmental Resource Board deems to be unnecessary for a dangerous animal. The Environmental Resource Board may waive the provisions of subsections (a)-(f) for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

(i) **Euthanasia.** If the owner of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

**Rule #1 – LICENSING FEES, FINES AND PENALTIES**

**1.5. Fines and Penalty Schedule.** Violations of the Domestic Animals law may result in the issuance of a citation by a law enforcement or conservation officer. A citation may include any or all the fines/penalties authorized in the Domestic Animals law and/or set forth in this rule; The Fines and Penalty Schedule is incorporated in this rule as an attachment.

**Title 8. Judiciary - Chapter 803**

**ONEIDA JUDICIARY RULES OF CIVIL PROCEDURE**

803.29-2. *Defendant.* When a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in this Law or elsewhere, a default judgment may be granted by the Court upon the receipt of whatever evidence is deemed necessary to establish the claim.

**ORDER**

The Defendant is found in Default. The Court issues the following Order:

The Defendant is fined \$500.00 plus court costs of \$25.00 for a total of \$525.00 payable to the Oneida Judiciary within 90(ninety) days from the date this Order is signed.

IT IS FURTHER ORDERED:

The following conditions (a), (b), (c), (d), (e), (f), (g) with the option to choose (i) of the Domestic Animals Law 304.10.2 shall apply, if at any time, the dog known as **Kona** is at the residence of the Defendant who resides at 2919 Commissioner St., Oneida, WI 54155.

304.10-2. *Harboring Dangerous Animals.*

**(a) Leash and Muzzle.** No person keeping or possessing a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than four feet (4') in length.

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**(i) Euthanasia.** If the owner of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council an Order was signed on August 31, 2018. Case #18-CT-007.

  
Denice Beans, Chief Trial Court Judge