

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

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**TRIAL COURT**

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**Oneida Nation / Oneida Police Department,**  
**Petitioner**

v.

**Case No: 18-CT-012**

**Juanita D. Powless,**  
**Defendant**

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**DISMISSAL ORDER**

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This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

*Appearing in person:* Defendant, Juanita D. Powless.

*Not appearing in person:* Petitioner's Attorney, Kelly M. McAndrews.

**Background**

On July 25, 2018, Defendant was issued a citation for Harboring a Dangerous Animal pursuant to 3 O.C. 304.10-1(a)(2). The citation required a mandatory appearance in court. On October 18, 2018, a pre-trial hearing was held. At the hearing, Petitioner requested that conditions be set on the animal until the final hearing, which was scheduled for December 4, 2018. The Petitioner failed to appear at the final hearing on December 4, 2018.

**Findings of Fact**

The court finds as follows:

1. The court has subject matter and personal jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. On December 4, 2018 a final hearing was held.
4. The Petitioner did not appear at the final hearing.
5. The Petitioner failed to prosecute this matter.

**Findings of Fact**

**Title 8. Judiciary – Chapter 803 Oneida Judiciary Rules of Civil Procedure**

803.21-2. Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with this Law or a Court Order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision 803.21-2 and any dismissal not under this Rule – except one for lack of jurisdiction, improper venue, or failure to join a party – operates as an adjudication on the merits.

**Analysis**

The Petitioner did not appear at the final hearing and failed to notify the Court that they would not be able to appear. At the final hearing, the Defendant requested the case be dismissed. Based on the Petitioner's non-appearance and considering section 803.21-2, the Court must grant the request of the Defendant because the Petitioner failed to prosecute.

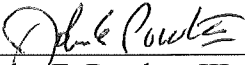
**Order**

The court enters the following order:

1. All conditions set on the animal are no longer in effect.
2. Pursuant to 803.21-2 of the Oneida Judiciary Rules of Civil Procedure case #18-CT-012 is dismissed with prejudice.

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 December 7, 2018. Case 18-CT-012.

  
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John E. Powless III  
Trial Court Judge