

Oneida Tribal Judicial System

Onayote 7 aka Tsi7 Shakotiya7 Tolé hte

TRIAL COURT

Nona Danforth,
Candace Danforth,
Kerry Danforth,
Petitioners

Docket No: 12-TC-109

v.

Date: July 10, 2012

Vicente Vega and Oneida Appeals Commission
Trial Court (Mary Adams, Jean Webster,
Sandy Skenandore, and Carol Liggins)
Respondents

DECISION ON PETITIONERS'

MOTION FOR INJUNCTION / RESTRAINING ORDER

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Stanley R. Webster, Kathy Hughes, Pro Tem and Robert Miller Jr., Pro Tem presiding.

Background

Petitioners file this complaint on behalf of their son and grandson, YWV, who is the subject of a pending paternity case before a separate panel of the Oneida Tribal Judicial System Trial Court, Case No. 10-PA-083. Petitioners seek to stop unsupervised placement of YWV with his father as ordered in the Temporary Order by the trial court on May 31, 2012, until the Guardian ad Litem is able to complete her work. Petitioners assert that permitting unsupervised visits between YWV and his father is not in the best interest of YWV. For the reasons below, we deny Petitioners' motion.

II Issue

Should Petitioners' Motion be granted?

III Analysis

The Petitioner's Motion raises two issues that must be addressed.

First – Immunity

The judicial officers named as respondents are immune from suit. Under Resolution 8-19-91-A establishing the Oneida Tribal Judicial System, judicial officers possess immunity from suit. See Resolution 8-19-91-A, Addendum Sec. IV-A. That section states:

The Oneida Appeals Commission officer *shall maintain their immunity from suit*, but are subject to the "Oneida legislatively appointed Committee Removal Ordinance," and the Oneida Elected Official Removal Ordinance.

(Emphasis added).

As such they cannot be sued in their official capacities. If Petitioners don't agree with a decision from the trial court, their options are to seek reconsideration from the trial court or appeal the decision to the appellate court. If the Petitioners believe the judicial officers sitting on their case should not be hearing their case, they can seek recusal. Suing the judicial officers in the trial court and having the merits of their case heard by another set of judicial officers is not an option.

Second - Dual actions

Starting another lawsuit in the same court over the same issue between the same parties is not allowed. The issue before the court has already been decided by the original trial panel. They issued a temporary order and the guardian ad litem is doing her work. The principle of collateral estoppels prevents parties from re-litigating issues that was previously decided between parties in another case. *Webster v. Vandehei*, 07-AC-029 (3/26/2008), fn. 1. Chapter 2, Rules of Civil Procedure. (NOTE: Rule 7E must be applied when filing a motion.)

Decision

The motion is denied. It is so ordered.