

Oneida Tribal Judicial System

Onʌyote ʔ a-ka Tsiʔ Shakotiyaʔ Tolé hte

**ONEIDA TRIBAL JUDICIAL SYSTEM
TRIAL COURT**

**Scharlene Kasee,
Petitioner**

v.

**Oneida Police Department,
Respondent**

Docket No: 10-TC-026

Date: March 31, 2010

Decision on Motion for Injunctive Relief

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Sandra L. Skenadore, and Jean M. Webster, presiding.

I Background

On February 26, 2010, Petitioner, Scharlene Kasee, filed this complaint to stop her alleged termination with Respondent. Petitioner requests the following: for this Court to compel Respondent and the Oneida Business Committee to lift the current hiring freeze; for this Court to allow Petitioner to call a GTC meeting; for this Court to allow Petitioner to ascertain outside legal representation; and, for this Court to allow Petitioner to discuss this case with whomever she deems necessary.

On March 2, 2010, the Court denied Petitioner's filing because the Rules of Civil Procedure, Rule 5(C) are not being followed. Petitioner failed to submit a copy of her complaint to the opposing party. The Court allowed Petitioner 5-days to perfect her filing. The Rules of Civil Procedure are written to ensure everyone, including the Court, is following the same set of rules.

On March-8, 2010, Petitioner submitted two documents; Petitioner filed her notice showing Rules of Civil Procedure, Rule 3 was followed. The case was accepted for review and offers its opinion. Petitioner also filed a motion to recuse Judicial Officer Adams. The Court shall provide separate opinions to prevent further delay.

Petitioner's original requests for the following relief:

1. The Oneida Police Department (OPD) be prevented from terminating Petitioner's position with OPD; and
2. OPD continue to pay Petitioner's wages and restore all benefits until Petitioner is placed in a position of equal pay and benefits with the full "good faith" efforts and mutual cooperation of the OPD and Oneida Business Committee (OBC) along with management lifts the current hiring freeze; and
3. Petitioner be allowed to bring this issue before the GTC by way of petition as deemed appropriate by Petitioner and Petitioner's acting representative; and
4. Petitioner be allowed to ascertain outside legal representation if and when Petitioner decides all other avenues are exhausted with the Tribe; and
5. Petitioner be allowed to discuss this case with those deemed necessary and appropriate to bring about positive results for the claims herein, to include employee protection, again; due to the original creation of potential for future hostile work environment action(s).

II Analysis

Petitioner's case is not in the proper court and can not be adjudicated:

1. Petitioner is requesting this court to stop a termination. The Trial Court has not prevented or stopped terminations in the past because all termination cases are held at the Personnel Commission. The Personnel Policies and Procedures details the steps for grieving employment terminations. The Oneida Nation Law Enforcement Ordinance includes a provision that identifies the Police Commission has the authority to hear appeals of disciplinary action against non-sworn personnel (37.6-1(i)). For these reasons, this Court is not the proper venue

to address termination claims. The proper body to petition employment grievances is either the Oneida Personal Commission or Police Commission. Petitioner's documentation shows a settlement was signed but there's no indication as to what prompted the parties to negotiate that settlement. Generally, parties are encouraged to settle by a court or hearing body. If a court or hearing body reviewed the settlement then Petitioner may need to file an appeal or return to the appropriate court or hearing body for enforcement.

2. The Trial Court can not place Petitioner in an employee position because the Trial Court does not have the authority to review employee personnel issues. See Sec. V.D.6 of the Oneida Personnel Policies and Procedures. In addition, the Trial Court does not have the authority to lift the current hiring freeze that the OBC has in place unless the hiring freeze is proved to be unlawful.
3. The Trial Court does not have the authority to approve calling a General Tribal Council (GTC) meeting. The Tribe's Constitution delegated that power to the OBC.
4. The Trial Court does not have the authority to deny or approve Petitioner's right to obtain legal representation. The APA (Sec. 1.10-1(c)(9)) and the Indian Civil Rights Act (25 USC § 1302(6)) permits parties to obtain legal representation at their own expense.
5. The Trial Court does not have the authority to deny or approve who Petitioner consults with. Judicial officers are prohibited from advocating or discussing any cases that are before the Oneida Judicial System. In addition, the proper venue to decide on employee protection is the Oneida Personal Commission.

Due the Petitioner's documentation, the Court rules Petitioner's requests are not in the proper forum. Petitioner is encouraged to file before the appropriate forum.

In order to prevent further delay, Petitioner's motion for recusal is deemed moot because the proper venue to decide on employee protection is the Oneida Personal Commission.

II Decision

Petitioner's motion for an injunction is denied.

It is so ordered.