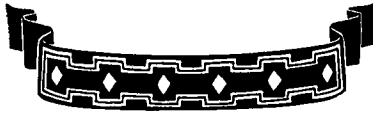


Oneida Appeals Commission

Onlayote 7 aka Tsi7 Shakotiya7 Tolé hte

Phone: 920-497-5800
Fax: 920-497-5805

Post Office Box 19
Oneida, WI 54155



Trial Court

Richard L. Campbell, Ronda L. Skenandore,
and R. L. C.,

Petitioner

Docket No. 04-TC-003

vs.

Jack R. Menhajah, and Oneida Police Depart.

Respondent

Date: March 15, 2004

Motion For Temporary Restraining Order

This case has come before the Oneida Appeals Commission Trial Court, Judicial Officers Leland Wigg-Ninham, David Raasch, and Stanley R. Webster presiding.

I Background

The Petitioners have submitted a motion for a Temporary Restraining Order against the Respondent to the Oneida Appeals Commission Trial Court, on March 10, 2004.

The Petitioners, Richard L. Campbell, Ronda L. Skenadore, and their son, R. L. C., request that the Oneida Appeals Commission grant a Temporary Restraining Order against the Respondents, Officer Jack R. Mehojah of the Oneida Police Department, as well as the Police Department as a party. The Petitioners allege that Respondent Mehojah used excessive and unnecessary force against Petitioner, R. L. C., causing injury and emotional stress. The Petitioners further allege that additional injury and/or emotional stress will occur if Respondent Mehojah is on the premises of the Oneida Elementary School, where Petitioner R. L. C. is present as a student.

II Analysis

Upon initial review, this hearing body finds that the Petitioners did not sufficiently allege that they are entitled to the relief demanded. The Petitioners claim that the Respondent used excessive and unnecessary force against the Petitioner, R.L.C., causing injury and emotional distress. However, the Petitioners have not provided this court with any evidence or documentation to that effect. The two independent investigation reports submitted in regard to this incident both concluded that the Respondent acted within the scope of his duties. Based on the evidence and documentation provided to this court, this court must conclude that the Petitioners' request does not support grounds for granting an injunction hearing. The Oneida Rules of Civil Procedure set forth the grounds for injunctive relief: Rule 31 (E)(1) and (2) Grounds for Injunction:

- (1) When it appears by the pleadings on file that a party is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act complained of, either for a limited period of time or perpetually.*

- (2) When it appears from the pleadings or by affidavit that the commission or continuance of some act during the litigation would produce great or irreparable injury to the party seeking injunctive relief.*

The Rules of Civil Procedure, Rule 31 (F)(1)(a)-Procedure, stipulates the grounds for granting injunctive relief:

- (1) A party seeking injunctive relief shall submit a motion or application for said relief with the Oneida Appeals Commission:*
 - (a) The Trial Court shall determine if the motion for an injunction has clearly established the grounds for injunctive relief and whether a restraining order due to any criteria for a temporary restraining order is necessary. If immediate and irreparable harm is not apparent, but grounds for an injunction are established, a hearing shall be scheduled.*

The Petitioner's have not substantiated their allegations in the form of evidence or documentation that immediate and irreparable harm will occur to R.L.C. if Respondent Mehojah is allowed on, or near the Oneida Nation Elementary School. There are no details as to the nature of the confrontation between Respondent Mehojah and R.L.C., nor is any evidence of injury or harm submitted. This hearing body cannot reasonably conclude based upon the evidence submitted that the Petitioners have established a basic right to the relief requested.

III Decision

The Petitioner's have failed to clearly establish specific grounds necessary for the issuance of an injunction as defined in Rule 31 (E)(1) and (2) and Rule 31 (F)(1)(a) of the Oneida Appeals Commission Rules of Civil Procedure. This court will not issue an injunction solely based on allegations on any matter that comes before this court. The allegations must be supported by evidence or documentation, and in this case, the Petitioner's have failed to do so. Therefore, the motion for an Injunction is denied.