

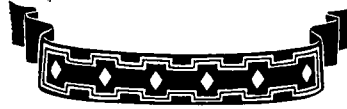
Oneida Appeals Commission

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ONEIDA APPEALS COMMISSION

TRIAL COURT

Valerie J. Bruette)

Docket No. 04-TC-027

Vs.)

Date October 8, 2004

HRD, Personnel Commission)
Backgrounds, Oneida Appeals Commission)
Oneida Tribe of Indians of Wisconsin)

This case came before the Oneida Appeals Commission Trial Court, Judicial Officers, Alice Soulier, Richard Ackley and Mark Butterfield Lead Judicial Officer presiding on October 8, 2004 at Oneida, WI. Appearances by William Cornelius for the Oneida Appeals Commission, Gerald Hill for the Oneida Personnel Commission and Peggy Schneider for the Oneida Human Resources Division, Compliance Division and Oneida Tribe of Indians of Wisconsin, and Ms. Valerie Bruette representing herself, *pro se*.

This case was heard under the standard that all well plead allegations in the *Petition* were considered true for the purposes of the claim of lack of jurisdiction. For these purposes the petitioner is a non-Oneida Indian who works in a position for the Oneida Tribe of Indians of Wisconsin. Ms. Bruette was an applicant for the position of

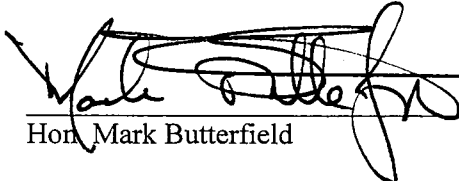
appellate clerk of the Oneida Appeals Commission. For the purposes of this case it is accepted that she passed the typing test for this position and otherwise met the minimum qualification for the position of appellate clerk. She was initially given an invitation to interview which was later withdrawn. The position of appellate clerk was designated as open only to members of the Oneida Nation.

The Trial Court heard arguments from all the parties in this case. After the conclusion of the oral argument, consideration of all the pleadings filed, and having duly deliberated in this matter, the Trial Court concludes that it lacks subject matter jurisdiction to hear this matter. This Court finds that there is no administrative appeals body from which there is a proper appeal. Basically stated, there is no Oneida Administrative body which rendered a decision from which an appeal can be made. Ms. Bruette is an applicant for a position and does not possess either a liberty or property interest in the position for which she applied.

This Court is *not* a Court of general jurisdiction limited to areas where there is a specific right of appeal. Ms. Bruette claimed at the hearing for the first time that she was seeking a declaratory judgment under *Oneida Rule of Civil Procedure 33*. Given that the *Answer* had already been filed and she did not seek permission to amend her pleadings, it is too late to do so at the hearing as prejudice has applied. Though this court noted for the record that it did have personal jurisdiction over the petitioner, it found that there was no appeal properly under the Oneida Administrative Procedures Act which was brought properly before the Oneida Appeals Commission.

By authority vested in the Oneida Appeals Commission pursuant to Resolution 8-19-91A of the General Tribal Council it is so held on this 8th, day of October in the matter

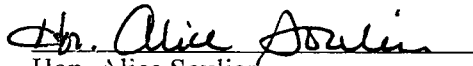
of *Bruette v. HRD, Personnel Commission Backgrounds, Oneida Appeals Commission,*
and *Oneida Tribe of Indians* on the Oneida Reservation.



Hon. Mark Butterfield



Hon. Richard Ackley



Hon. Alice Soulier