

Oneida Appeals Commission

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Trial Court

Ronald Wayne Hill, Sr.,
Petitioner

Docket No. 05-TC-033

vs

Oneida Business Committee,
Respondent

Date: May 2, 2005

Injunction Hearing

This case has come before the Oneida Appeals Commission. Judicial Officers Leland Wigg-Ninham, Janice McLester, and Winnifred Thomas

Background

The Petitioner is requesting a Temporary Restraining Order to cease and desist the execution or implementation of any portion of GTC Resolution No. 12-13-04-A. The Oneida Business Committee is claiming they enjoy sovereign immunity from suit.

Issues

Does the Oneida Business Committee enjoy sovereign immunity?

Analysis

Does the Oneida Business Committee enjoy sovereign immunity?

Petitioner raises a number of claims. For this Commission to address those claims, the Petitioner

must prove the threshold questions of whether the Business Committee is subject to suit.

However, if Petitioner does not pass the threshold question that the Respondent is immune from suit, all other claims will not be addressed.

The Petitioner claims that a number of his rights have been violated due to the Oneida Business Committee's failure to provide proper notice to the Oneida General Tribal Council regarding Resolution 12-13-04-A which led to subsequent violations by the Oneida General Tribal Council in light of the Oneida Business Committee's failure to uphold the Oneida General Tribal Council Ten Day Notice Policy. The Respondent, the Oneida Business Committee claims that as an entity of the Oneida Tribe, they enjoy sovereign immunity from suit. Since Sovereign Immunity is the main issue in this matter, this hearing body will address this matter.

On May 5, 2004 the Oneida Business Committee adopted Emergency Resolution No. 5-05-04-D. This Resolution makes it very clear that the Oneida Business Committee, departments, officials, agents and employees are immune from suit.

Chapter 14, entitled Sovereign Immunity, 4-1 states:

No suit or other proceeding, including any tribal proceeding, may be instituted or maintained against officers, employees or agents of a Tribal Entity for actions within the scope of their authority, unless the Tribe or the Tribal Entity has specifically waived sovereign immunity for purposes of such suit or proceeding.

Chapter 14.3-1 defines "Officer" as:

"Officer" means a person elected or appointed to serve on a board, committee, or commission of the Oneida Tribe of Indians of Wisconsin.

The Oneida Business Committee is made of elected "officials". The Petitioner has not shown to this Commission that the Oneida Business Committee has waived its sovereign immunity.

Therefore, this Commission rules that the Oneida Business Committee members are officers of the tribe, and were acting within their scope of authority and are therefore immune from suit.

Decision

This Commission will not address any other issues the Petitioner has brought forth because the Respondent has proven to this Hearing Body that Sovereign Immunity prevails. It is the decision of this hearing body to dismiss this case in favor of the Respondent.