

# Oneida Appeals Commission

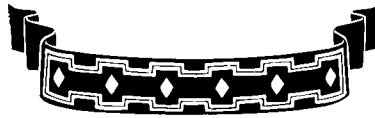
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## Trial Court

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Martin James Antone,  
Petitioner

Docket No. 06-TC-020

vs.

Mark King, President Oneida Police Commission,  
Gary Metoxen, Oneida Police Commission,  
Bev Anderson, Oneida Police Commission,  
Arlene Danforth, Oneida Police Commission,  
David Webster, Oneida Police Commission  
Respondents

Date: April 5, 2006

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## Notice for Hearing

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This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Robert Christjohn, and Gerald Cornelius presiding.

### I Background

On February 27, 2006, Petitioner, Martin James Antone, filed a Motion for Injunction to stop the Respondent, Oneida Police Commission, from alleged violations of the Blue Book, Law Enforcement Ordinance, and Police Department's hiring SOP. In addition, he alleges violations of the Soldier Sailor Relief Act.

On March 30, 2006, a hearing was held on Petitioner's application in accordance with Rules of Civil Procedure, Rule 31(F)(2). Petitioner requested peacemaking. The court agreed and allowed 45-days for the peacemaking process. However, after reviewing this case, it is evident that Petitioner has failed to exhaust his grievance remedies available through the Oneida Police

Department and Police Commission. Therefore, this case is dismissed without prejudice. While the court dismisses this case, the parties are not exempt from entering into peacemaking for resolution.

## **II Issues**

Is Petitioner's Motion for an Injunction proper?

Is Petitioner's claim that the Oneida Police Commission violated the Soldier Sailor Relief Act in the proper jurisdiction?

## **III Analysis**

**Is Petitioner's Motion for an Injunction proper?**

No. Respondent argues Petitioner's brief filed with the Oneida Police Commission is worded exactly as, Rick Cornelius & Tim Huff v Mark King, Geraldine Danforth, Brenda Skenandore and Oscar Scyuler, Docket 05-TC-149, on November 21, 2005, for a Motion for Injunction, Motion to Stay and Motion for Recusal. Respondent claims the Trial Court issued its opinion on December 27, 2005, dismissing their claim and added, "Petitioners lack standing to bring this cause of action". (Emphasis added.) Respondent contends since this argument was dismissed due to lack of standing, then Petitioner's case should also be dismissed due to lack of standing.

Petitioners in the Cornelius & Huff raised the same issues: 1) place a stay on all police officer and security officer hiring; 2) to order the Oneida Police Commission to surrender their hiring role; and 3) the Police Department's hiring only continue in accordance with the Personnel Policies and Procedures. The issue Cornelius & Huff raised involves a decision to hire Candidate X. Petitioners argue that because the Police Commission called to re-interview for a police officer position they were in violation of their own SOP. In the first interview Candidate X held the lowest score, after the second interview rated the top score, and eventually was hired. The trial court dismissed Cornelius & Huff, holding that Petitioners lack standing because they failed to show personal harm. Regardless if Candidate X or another officer was chosen, Petitioners would not suffer personal harm.

Petitioner in this case requests an Injunction for the same three issues raised in the Cornelius & Huff decision, but in addition, claims that he was personally harmed when he was not provided an opportunity to interview for the Chief or Assistant Chief of Police position. If Petitioner filed a claim with the Police Commission, then his appropriate remedy would be appealing his claim with the appellate court.

**Court findings of fact and conclusion of law:**

This case is dismissed. An injunction is sought to prevent an action from taking place. Injunctions do not address actions that have been completed. Petitioner claims he was personally harmed by not being allowed to apply for a position. While Petitioner may have a grievance dispute, this court can not accept his motion for an injunction based on the issues set forth. According to Resolution # 8-19-91-A and it's addendum II(C), the Appeals Commission (trial court) has authority to hear cases that have no specified hearing forum. The Appeals Commission has authority to hear contested cases where a written opinion has been rendered in accordance with the APA. Respondent's Exhibit B, Police Commission Organizational Chart, specifies the "Chain of Command". Petitioner may appeal his supervisor's decision in accordance with the chain of command. His grievance may eventually ripen into a contested case which could then be appealed to the Appeals Commission.

This case is dismissed because Petitioner failed to include a written decision from the Police Commission, which at this point would serve as the original hearing body. In other words, because Petitioner failed to prove he exhausted his appeal process, this court can not accept this case. Once a written opinion has been rendered by the Police Commission then that decision may be appealed to the appellate court.

**Is Petitioner's claim that the Oneida Police Commission violated the Soldier Sailor Relief Act in the proper jurisdiction?**

No. If Petitioner claims Respondent violated the Soldier Sailor Relief Act, then Petitioner may grieve the issue. Petitioner may need to review the Oneida Nation Law Enforcement Ordinance,

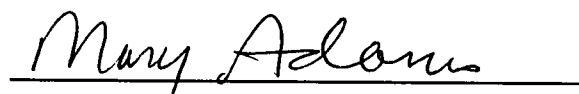
in order to find resolution. In addition, according to the Law Enforcement Ordinance, Section 37.6-1(i), the Police Commission has authority to hear appeals of disciplinary actions prior to appealing at the Appeals Commission. After the Police Commission makes a ruling on this issue, then Petitioner may appeal his case with the Appellate Court. The Trial Court only hears cases that have no specific original hearing forum. The Trial Court is without jurisdiction to hear this case. This issue is dismissed.

#### IV Decision

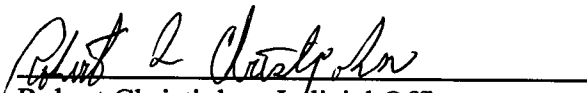
Petitioner's motion for an injunction is denied. Petitioner has not exhausted his remedies through the Oneida Police Department and Police Commission. The Trial Court is not the proper forum to hear Petitioner's claim that Respondent violated the Soldier Sailor Relief Act. Therefore, this case is dismissed without prejudice.

It is so ordered.

By the authority vested in the Oneida Tribal Judicial System pursuant to Resolution 8-19-91A of the General Tribal Council it is so held on this 5<sup>th</sup> day of April 2006, in the matter of Martin James Antone vs. Oneida Police Commissioners. Docket No. 06-TC-003.



Mary Adams, Lead Judicial Officer



Robert Christjohn, Judicial Officer



Gerald Cornelius, Judicial Officer