

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation/
Oneida Police Department
Petitioner**

v.

Case No: 19-CT-017

**Nizohonie R. Gilsoul,
Defendant**

DEFAULT JUDGMENT

This case has come before the Oneida Trial Court, Honorable Denice Beans presiding.

Appearing in person: Attorney Kelly McAndrews for the Petitioner: Oneida Nation/Oneida Police Department.

Not appearing: Defendant, Nizohonie R. Gilsoul.

STATEMENT OF THE CASE

A citation was re-issued to Defendant on December 12, 2019 alleging that the Defendant's dog was an Animal Running at Large under 304.7-4. There were four prior complaints and four warnings issued concerning the Defendant's dog verified with the Oneida Police Department. This is the first citation that was issued to the Defendant and it does not have a mandatory appearance requirement.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. A hearing was held on February 20, 2020.
4. The citation violation did not require a mandatory appearance in Court by the Defendant.
5. The Defendant failed to appear, plead, or defend.
6. The Defendant was found to be in default.
7. The Petitioner requested the maximum fine for a 1st offense Animal Running at Large be ordered in the amount of \$75.00, which was granted.
8. The Court added court costs of \$25.00 for a total amount due of \$100.00 to be paid to the Oneida Judiciary within 30 (thirty) days.

PRINCIPLES OF LAW

**Title 3. Health and Public Safety - Chapter 304
DOMESTIC ANIMALS**

304.7-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a leash under the control of a person physically able to control the animal.

Rule #1 – LICENSING FEES, FINES AND PENALTIES

1.5. Fines and Penalty Schedule. Violations of the Domestic Animals law may result in the issuance of a citation by a law enforcement or conservation officer. A citation may include any or all the fines/penalties authorized in the Domestic Animals law and/or set forth in this rule; The Fines and Penalty Schedule is incorporated in this rule as an attachment.

ONEIDA NATION CITATION NOTICE:

If you do nothing, the Court may enter a default judgement which may include, but is not limited to, any fine amount that is due, restitution and/or suspension of any rights, privileges or licensures with the Oneida Nation.

Title 8. Judiciary - Chapter 803

ONEIDA JUDICIARY RULES OF CIVIL PROCEDURE

803.29-2. *Defendant.* When a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in this Law or elsewhere, a default judgment may be granted by the Court upon the receipt of whatever evidence is deemed necessary to establish the claim.

ANALYSIS

The citation that was written was found to be appropriate. There were four prior verified reports resulting in four warnings being issued. When considering the eleven prior disturbances, the Defendant’s dog is a Nuisance Dog under 304.6-4.

This hearing was not mandatory to attend. The Defendant did not attend the hearing, the Court found the Defendant in Default for failure to appear, plead or otherwise defend as required under 803.29-2. The Defendant will be fined the maximum amount for a first time Animal Running at Large violation along with the court costs.

ORDER

A default judgment is entered in favor of the Petitioner and against the Defendant in the amount as follows:

Fine:	\$75.00
Court Costs:	<u>\$25.00</u>
Total owed by Defendant:	\$100.00

The Total amount due is payable to the Oneida Judiciary **within 30 (thirty) days** from the date this Order is signed. Failure to pay is subject to the Nation's laws and remedies.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and a Default Judgment signed on February 24, 2020.

Denice Beans, Chief Trial Court Judge

The parties have the right to appeal within thirty (30) calendar days after the date this order or judgment is signed. A copy of the order will be mailed to all parties.