

**ONEIDA JUDICIARY**  
**Tsi nu téshakotiya?tolétha?**

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**TRIAL COURT**

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**Oneida Nation / Oneida Police Department,**  
**PETITIONER,**

**v.**  
**Scott D. Kosbab,**  
**DEFENDANT**

**CASE NO: 20-CT-001 and**  
**20-CT-004**

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**DEFAULT JUDGMENT**

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

*Appearing telephonically:* Attorney Kelly McAndrews for the Petitioner: Oneida Nation/Oneida Police Department.

*Non-Appearance:* Respondent, Scott D. Kosbab, Sr.

**BACKGROUND**

Four citations have been issued.

Two on December 16, 2019 by Officer Brandon Davis:

- 1) for 304.7-4 Animal running at large, 3<sup>rd</sup> Offense, \$500 fine + \$25 court costs = **\$525**.
- 2) for 304.7-5 Nuisance animal, 1<sup>st</sup> Offense, \$75 fine + \$25 court costs = **\$100**.

Two on February 22, 2020 by Officer Ralph Powless:

- 1) for 304.7-4 Animal running at large, 3<sup>rd</sup> Offense, \$500 fine + \$25 court costs = **\$525**.
- 2) for 304.7-4 Animal running at large, 3<sup>rd</sup> Offense, \$500 fine + \$25 court costs = **\$525**.

A hearing was scheduled and held on May 21, 2020 at 9:45 a.m.

**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 May 21, 2020 at 9:45 a.m.
4. The citation violations: 304.7-4 Animal running at large, 3<sup>rd</sup> Offense, required 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.

## PRINCIPLES OF LAW

### **Oneida Code of Laws 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.

(a) A stray dog or cat running at large may be referred to the Oneida Police Department or Oneida Conservation Department.

(b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat running at large, the officer and/or warden shall, if possible, pick up and impound such animal.

(c) Whenever any impounded animal bears an identification mark, such as a collar with identification tags or license tag, the owner shall be notified as soon as reasonably possible.

**304.7-5. Nuisance.** An Oneida Police Officer or Oneida Conservation Warden may pick up and impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a nuisance if the actions of the dog or cat:

(a) resulted in two (2) or more verified disturbances due to excessive barking and/or other noise by the animal, or the animal running at large; and/or

(b) resulted in one (1) or more verified disturbance due to threatening behavior by the animal running at large.

### **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.

## ANALYSIS

The Defendant was cited for a violation of section 304.7-5, Nuisance animal, 1<sup>st</sup> Offense and for three citations of dog running at large, 3+ Offenses in violation of section 304.7-4. The Defendant is required to appear for 3+ Offenses in violation of section 304.7-4, failure to do so may result in a default judgment. Here, the Defendant did not appear and/or defend against the citation. Therefore, the Court ordered a default judgment as described below.

## ORDER

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

**Running at Large – 304.7-4.**

Fine:	\$500.00
Court Costs:	<u>\$ 25.00</u>
<b>Amount owed by Defendant:</b>	<b>\$525.00</b>

**Running at Large – 304.7-4.**

Fine:	\$500.00
Court Costs:	<u>\$ 25.00</u>
<b>Amount owed by Defendant:</b>	<b>\$525.00</b>

**Running at Large – 304.7-4.**

Fine:	\$500.00
Court Costs:	<u>\$ 25.00</u>
<b>Amount owed by Defendant:</b>	<b>\$525.00</b>

**Nuisance animal, 1<sup>st</sup> Offense -- 304.7-5**

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

**Total amount owed by Defendant:           \$1,675.00**

The Total amount due is payable to the Oneida Judiciary **within 200 (two hundred) days** from the date this Order is signed. Failure to pay is subject to the Nation’s laws and remedies.

**The parties have the right to appeal within thirty (30) calendar days after the date this order or judgement is signed.**

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 an Order signed on May 21, 2020.

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Denice Beans, Chief Trial Court Judge