

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
Petitioners**

**CASE NO: 21-CT-032
21-CT-033**

**v.
Frances M. Nunies,
Defendant**

Date: January 21, 2022

DEFAULT JUDGMENT

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Appearing in person: Attorney Kelly McAndrews, representing the Petitioners.

Not appearing: Defendant, France M. Nunies.

BACKGROUND

Two citations, 21-CT-032 and 21-CT-033, were issued to the Defendant on October 25, 2021, for violating Oneida Code of Laws section 304.6-4, Animal Running at Large, 3rd offense and section 304.6-5, Nuisance Animal, 3rd offense. A hearing was held on January 20, 2022 at 9:00 a.m.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. The Defendant received proper notice.
3. The Defendant was issued a citation on October 25, 2021, for an Animal Running at Large, 3rd offense.
4. The Defendant was issued another citation on October 25, 2021, for a Nuisance Animal, 3rd offense.
5. The Defendant was not required to appear.
6. The Defendant did not appear at the hearing on January 20, 2022.
7. The Defendant was found in default for failure to appear.
8. The Petitioner presented clear and convincing evidence the Defendant's animal, a yellow Labrador named Smokey, was running at large.
9. The Petitioner presented clear and convincing evidence the Defendant's animal, a yellow Labrador named Smokey, was a nuisance animal.

PRINCIPLES OF LAW

Oneida Code of Laws Title 3. Health and Public Safety - Chapter 304 Domestic Animals:

Section 304.6-4. *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.

Section 304.6-5. 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 Code of Laws Title 8. Judiciary – Chapter 807 Citations:

807.6-1. *Citation Pre-Hearing*.

(f) If a defendant does not appear at the pre-hearing or submit written notice that he or she is contesting the citation when there is a non-mandatory appearance, and the defendant has not entered into a stipulation or paid the fine and/or penalty as listed on the citation, the Court may proceed to enter a default judgment.

(1) A default judgment may include any fine amount due, restitution, suspension of any rights, privileges, or licensures, and/or any other penalty authorized by law.

ANALYSIS

The Defendant was cited for a violation of section 304.6-4 for a dog running at large and section 304.6-5 for a nuisance animal. The Defendant is not required to appear for such violations, however, failure to do so may result in a default judgment. Here, the Defendant did not appear or provide written notice she was contesting the citation. The Defendant also did not enter into a stipulation or pay the fine listed on 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:

1. 3rd offense, Animal Running at Large – 304.6-4.

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

2. 3rd offense, Nuisance Animal– 304.6-5.

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

Total amount owed by Defendant: \$1,050.00

The total amount due is payable to the Oneida Judiciary **within 120 calendar 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 30 calendar days in accordance with the Nation’s laws.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council this Order is signed on January 21, 2022.



Layatalati Hill, Chief Trial Court Judge