

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

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

CASE NO: 21-CT-043

v.

**April L. King,
Defendant**

Date: January 24, 2022

JUDGMENT

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

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

Appearing by phone: Defendant, April L. King.

BACKGROUND

A citation was issued to the Defendant on October 20, 2021, for violating Oneida Code of Laws section 304.10-1, Possessing a Dangerous Animal. A hearing was held on January 20, 2022 at 9:45 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. Defendant's dog¹ is a black and white German Shepard and Pitbull mix named Kylo.
4. Kylo was running loose and killed one domesticated chicken and bit another domesticated chicken. A third chicken was missing. The Dog also growled as it approached Oneida Police officer Dylan Wheelock.
5. The Defendant was issued a citation and a Declaration of Dangerousness on October 20, 2021, for Possessing a Dangerous Animal.
6. The Defendant did not contest the Declaration of Dangerousness within three business days of receiving the declaration.
7. The Petitioner presented clear and convincing evidence the Defendant's animal is dangerous.
8. The Defendant was still in possession of the animal at the time of the hearing.

¹ Defendant claimed the dog belonged to her daughter, Diana L. Sanapaw, but Defendant took responsibility for the animal when Oneida Police Department contacted Defendant.

PRINCIPLES OF LAW

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

304.10-1. Dangerous Animals. No person shall own, keep, possess, return to or harbor a dangerous animal. An animal shall be presumed to be dangerous if the animal:

- (a) approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack;
- (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal;
- (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any other jurisdiction.

304.10-2. Dangerous Animal Determination. An Oneida Police Officer or Oneida Conservation Warden may determine an animal to be dangerous whenever, upon investigation, the officer finds that the animal meets the definition of dangerous animal provided in section 304.10-1.

- (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer or Oneida Conservation Warden shall issue a written order with an accompanying citation declaring the animal to be dangerous.
- (b) The citation and order shall be personally delivered to the apparent owner or custodian of the dangerous animal.
- (c) Upon receipt of the written order and accompanying citation the owner shall remove the dangerous animal from the Reservation within three (3) business days

304.10-3. Contesting a Dangerous Animal Determination. If the owner wishes to contest the dangerous animal determination, he or she shall file with the Trial Court a written objection to the order within three (3) business days of receipt of the order.

ANALYSIS

The Defendant was cited for a violation of section 304.10-1 for Possessing a Dangerous Animal as well as a Declaration of Dangerousness. The Defendant has three business days to contest the dangerous animal declaration. The Defendant was issued the Declaration of Dangerousness on October 20, 2021. Three business days after October 20, 2021 was October 25, 2021. The Defendant did not file with the Trial Court to contest the declaration on or before October 25,

2021. Therefore, the Defendant did not timely contest the Declaration of Dangerousness and the dog must be removed from the Oneida Nation reservation or euthanized. During the hearing, the Defendant was given seven days to remove the animal from the Oneida Nation reservation or have the dog euthanized. As an option, the Defendant was told she could drop the dog off at the Humane Society. The Petitioner offered and Defendant accepted that if the Defendant did so within seven days, Petitioner would waive the \$500.00 fine and Defendant would only be responsible for the \$25.00 court costs. But if Defendant did not remove the dog from the reservation or have it euthanized within 7-days; the fine would be reinstated. The Court agreed. Therefore, the Court ordered a judgment as described below.

ORDER

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

1. The Defendant shall remove the dog, Kylo, from the Oneida Nation reservation or have the dog euthanized within seven days of the hearing held on January 20, 2022.
2. The Defendant shall notify the Oneida Police Department within twenty-four (24) hours if the dangerous animal has been sold or been given away.
 - a. If the dangerous animal has been sold or given away, the Defendant shall also provide the name, address and telephone number of the new owner of the dangerous animal.
 - b. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the Defendant shall present evidence to the Oneida Police Department showing that she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner.
 - c. The Oneida Police Department shall forward all such notifications to the Environmental, Health, Safety, and Land Division within a reasonable amount of time.
3. If the Defendant chooses to have the dog euthanized, the Defendant shall submit proof of destruction within five (5) business days of such destruction from a licensed veterinarian. If the owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.
4. 1st offense, Possessing a Dangerous Animal – 304.10-1.

Fine:	Conditionally Waived (\$500.00)
Court Costs:	<u>\$25.00</u>
Amount owed by Defendant:	\$25.00
5. The total amount due is payable to the Oneida Judiciary **within 30 calendar days** from the date this Order is signed.
6. 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 24, 2022.

Layatalati Hill, Chief Trial Court Judge