
Appellate Court

Linda S. Dallas,
Appellant

Docket No. 03-AC-027

vs.

Oneida Accounting Department,
Judicial Officer Mary Adams,
Respondents

Date: March 24, 2004

Final Decision

This case has come before the Oneida Appeals Commission. Judicial Officers Winnifred L. Thomas, Pearl House, Gary G. Metoxen, Stanley R. Webster, and Leland Wigg-Ninham, presiding.

I. Background

The Appellant was held in contempt on April 9, 2002, by the Oneida Personnel Commission for actions before that hearing body in the case of Linda Dallas vs. Eric McLester, 00-TER-005. The Appellant appealed that decision, and it was upheld by the Oneida Appeals Commission in Linda Dallas vs. Oneida Bingo & Casino, 02-AC-003, on July 30, 2002. The fine for contempt amounted to \$3,055.29. At the time that the contempt order was issued and upheld, the Appellant was an employee of the Tribe as an elected member of the Oneida Gaming Commission. The Personnel Commission sought an order for garnishment of the Appellant's wages and an order for garnishment was entered by the Oneida Appeals Commission on October 9, 2002.

In April of 2003, the Appellant was separated from that position pending a removal case against her, and the Oneida Tribe sought and received an order attaching her per capita payment of \$750.00 to be paid towards the satisfaction of the contempt fine. The per capita attachment was ordered on August 29, 2003.

The Appellant now appeals that order for attachment, arguing that she did not receive proper notice of the attachment hearing. The Appellant additionally argues that attachments of per capita payments are improper and the prior garnishment of her wages does not justify the attachment of per capita payments to be made to Tribal members. The Respondent argues that no attachment hearing is necessary under the rules governing the attachment of per capita payments and that the attachment should be upheld.

II. Issues

Has the Appellant properly named a judicial officer as a party to this appeal?
Was the Appellant's per capita payment properly attached in order to partially satisfy a debt owed to the Oneida Tribe?

III. Analysis

The Appellant has named Judicial Officer Mary Adams as a party to this appeal, arguing that Judicial Officer Adams has circumvented the Garnishment Ordinance by authorizing the per capita attachment. Judicial Officers benefit from judicial immunity, which means that they cannot be held liable for decisions rendered in the course of their duties as a Judicial Officer. This is a broad based immunity and may only be disturbed in limited circumstances, such as when an abuse of authority is alleged and substantiated. No such allegation is present. The Appellant merely addresses the content of the decision, arguing that it was improper and contrary to law. An alleged error of judgement is not an abuse of discretion or authority. Judicial Officer Adams is therefore dismissed as a named party to this case, and has not participated at any level in this appellate process.

The Oneida Per Capita Ordinance provides specific authority for the attachment of per capita payments under limited circumstances.¹⁷ A member's per capita payment may be attached to satisfy a debt owed to the Oneida Tribe or for payment of child support.¹⁸ The Appellant argues that because per capita payments are set by General Tribal Council, that the Oneida Business Committee is somehow unable to permit garnishment of the payments for debts owed by membership.

The Appellant provides no analysis or citation to any rule governing the scope of the Oneida Business Committee's authority to pass legislation dealing with the attachment of per capita payments. While it is generally held to be true that the Oneida Business Committee cannot pass legislation that directly contradicts the rules and statutes set forth by the General Tribal Council, no such legislation is shown to exist here in this case. The approval of a per capita payment, by General Tribal Council, has not been undermined, thwarted, or otherwise interfered with by the Oneida Business Committee.

The Appellant merely asserts that the ability of a Judicial Officer to order an attachment is somehow inherently contradictory with payment of per capita. There is no basis for such an assertion. The purpose of per capita payments is not defeated because the Appellant or other Tribal members do not receive those payments. The Appellant and others whose per capita payments are attached owe established debts to the Tribe or for child support payments as established through a court order. The per capita payment is a benefit to Tribal members, and the legal obligations of those members should be satisfied to the greatest extent possible. Those members of the Tribe who are free from debt to the Tribe or who are not in arrears in their child support payments benefit fully from the per capita payments approved by General Tribal Council. The Appellant's argument is unsupported by law or reason and is rejected by this court.

No section of the Per Capita Ordinance requires an additional hearing in order to attach a per

¹⁷ Per Capita Ordinance as adopted through BC Emergency Resolution #06-25-03.

¹⁸ Per Capita Ordinance: 4-6(a) per capita benefits can be garnished only for the following purposes: (1) Child support payments; and (2) Debts owed to the Oneida Tribe.

capita payment. Attachments are limited to Tribal debts and child support payments.¹⁹ Both are already established through a legal judgment or court order. The request for attachment was filed with the Oneida Appeals Commission in June of 2003. The order attaching the Appellant's per capita payment was entered in August of 2003. Both of these actions are in compliance with the process established by the Per Capita Ordinance for attachments.²⁰ The Appellant was provided notice that the request for attachment had been filed. The Appellant had sufficient opportunity to deal with the Tribe as the creditor in order to minimize the attachment and failed to do so. No additional hearing is necessary. The Appellant already received due process before the Oneida Personnel Commission on the issue of her contempt, as well as an appeal of that decision before the Oneida Appeals Commission, which upheld that finding of contempt. Sufficient due process has been afforded the Appellant. The Appellant's per capita was properly attached under the process outlined in the Per Capita Ordinance.

IV. Decision

The Appellant has not persuaded this Court that the attachment of her per capita payment to satisfy a debt owed to the Tribe was unauthorized or otherwise unlawful. The attachment order against the Appellant's per capita payment is upheld.

¹⁹ Per Capita Ordinance: 4-6(a) per capita benefits can be garnished only for the following purposes: (1) Child support payments; and (2) Debts owed to the Oneida Tribe.

²⁰ Per Capita Ordinance: 4-6(b) All requests for garnishment must be submitted by the claimant to the Oneida Appeals Commission before July 31st. Determinations by the Oneida Appeals Commission received before August 30th shall be forwarded to the Oneida Trust Committee for action in the next processed per capita payment.