

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
PLAINTIFFS,**

CASE NO: 22-CT-020

v.

**Truman G. Powless,
DEFENDANT**

DATE: July 21, 2022

DEFAULT JUDGMENT

This case has come before the Oneida Trial Court, Honorable Patricia Ninham Hoeft presiding.

Appearing In-person: Attorney Krystal John, representing Plaintiffs.

Non-appearance: Defendant, Truman G. Powless.

BACKGROUND

In accordance with 3 O.C. 309.8-4, Defendant was issued one citation for the offense of Truancy. The citation was issued in response to a report from the Oneida Nation Elementary School that each of Defendant's four children missed more than 48 days of school during the period of August 2021 to May 2022. Defendant was not issued citations for the truancy of each child. On July 21, 2022, a pre-trial hearing was held.

FINDING OF FACTS

1. The Court has subject matter, personal and territorial jurisdiction over this matter.
2. Defendant received proper notice of this hearing.
3. A pre-trial hearing was held on July 21, 2022.
 - a. Defendant did not appear.
 - b. Prior to this hearing, Defendant did not pay the fine, file written notice of their intention to contest the citation or enter into a stipulation with the Nation's attorney.
 - c. Defendant was issued the following citation for an incident on May 12, 2022:
 - i. Truancy – 1st Offense.
 - i. This citation did not require an appearance.
4. The Defendant was found in default for failure to appear.

PRINCIPLES OF LAW

Oneida Code of Laws Title 3. Health and Public Safety - Chapter 309 Public Peace:

309.8 Civil Infractions Against the Person

309.8-4. *Truancy*. A person commits the civil infraction of truancy if he or she fails without good cause to ensure that a child he or she is responsible for the care of attends school in accordance with the rules of the school district in which the child is enrolled.

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

Defendant was cited for one violation of 3 O.C. 309.8-4, Truancy, requiring Defendant to appear if they did not pay the fine prior, provide written notice of their intent to contest the citation, or enter into a stipulation with the Nation’s Attorney prior to this hearing. When a Defendant does nothing prior to the hearing, failure to appear at the hearing may result in a default judgment. Here, Defendant did nothing prior to the hearing and did not attend the hearing. Plaintiff made a motion for default judgment. Thus, the Court granted a default judgment described below.

ORDER

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

Truancy– 1st Offense – 309.8-4

Fine:	\$50.00
Court Costs:	<u>\$25.00</u>
Total Amount owed by Defendant:	\$75.00

The total amount due is payable to the Oneida Judiciary **within 30 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 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 July 21, 2022.

[Redacted Signature]

Patricia Ninham Hoeft, Trial Court Judge