

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
PETITIONERS,**

CASE NO: 22-CT-026

v.

DATE: September 15, 2022

**Nicholas R. Schoen,
DEFENDANT**

DEFAULT JUDGMENT

This case has come before the Oneida Trial Court, Honorable John E. Powless III presiding.

Appearing In-person: Attorney Krystal L. John, representing the Petitioners.

Non-appearance: Defendant, Nicholas R. Schoen.

BACKGROUND

In accordance with 3 O.C. 309.6-1, Defendant was issued a Disorderly Conduct Citation – 1st Offense and Defendant’s appearance is not required. This citation stems from an incident that occurred on July 6, 2022. On September 15, 2022, a pre-trial hearing was held.

FINDING OF FACTS

1. The Court has subject matter, personal, and territorial jurisdiction over this matter.
2. All entitled to notice received notice.
3. A pre-trial hearing was held September 15, 2022.
 - a. The Defendant did not appear.
4. The Defendant was issued a Disorderly Conduct Citation – 1st Offense.
 - a. This citation does not require a mandatory appearance.
5. 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:

309.6-1. *Disorderly Conduct.*

A person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the following behaviors:

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm or air gun that is prohibited;
- (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities;
 - (1) Between the hours of 10:00 p.m. and 6:00 a.m. any excessive noise shall be prohibited.
- (d) abuses or threatens a person on Tribal property in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other Tribal property, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in Tribal property, and the language by its very utterance tends to incite an immediate breach of the peace.

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 violating section 309.6-1, which does not require the Defendant to appear. Regardless, failure to appear may result in a default judgment. Here, the Defendant did not appear or provide written notice he 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:

Disorderly Conduct – 1st Offense – 309.6-1.

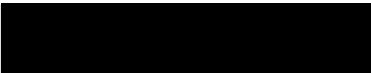
Fine:	\$250.00
Court Costs:	<u>\$25.00</u>
Total Amount owed by Defendant:	\$275.00

The total amount due is payable to the Oneida Judiciary within **ninety (90) 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 September 15, 2022.



John E. Powless III, Trial Court Judge