

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation / Oneida Police Department,
PETITIONERS,

CASE NO: 22-CT-027

v.

DATE: September 15, 2022

Todd G. Wheelock,
DEFENDANT

ORDER

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 and Defendant, Todd G. Wheelock.

BACKGROUND

In accordance with 3 O.C. 309.6-1, Defendant was issued Disorderly Conduct – 1st Offense citation, as a result, a mandatory 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. During the hearing, the Petitioner motioned the Court to dismiss the citation.

FINDING OF FACTS

1. The Court has subject matter, personal, and territorial jurisdiction over this matter.
2. All entitled to notice received notice.
3. The Defendant was issued a Disorderly Conduct – 1st Offense citation.
 - a. This citation does not require a mandatory appearance.
4. A pre-trial hearing was held September 15, 2022.
5. During the hearing, the Petitioner motioned to dismiss the citation.
6. The motion for dismissal is reasonable.

PRINCIPLES OF LAW

Oneida Code of Laws Title 8. Rules of Civil Procedure - Chapter 803

803.21-1. *Voluntary Dismissal.*
(a) By the Plaintiff.

(1) Without a Court Order. The plaintiff may dismiss an action without a Court order by filing:

(A) A notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(B) A stipulation of dismissal signed by all parties who have appeared.

(2) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any action based on or including the same claim, a notice of dismissal operates as adjudication on the merits.

(b) By Court Order; Effect. Except as required in Rule 803.21-1(a)(1), an action may be dismissed at the plaintiff's request only by Court order, on terms that the Court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (b) is without prejudice.

ANALYSIS

In accordance with 803.21-1(b), an action can be dismissed at the petitioner's request only by Court order, as long as the Court considers the motion reasonable. Here, during the hearing, the Petitioner motioned the Court to dismiss the citation. The Defendant did not object to Petitioner's motion. The Court considers the motion proper.

ORDER

This case is dismissed with prejudice.

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