

**ONEIDA JUDICIARY**  
Tsi nu téshakotiya?tolétha?

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**TRIAL COURT**

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

v.

**CASE NO: 22-CT-040**

**Nizohonie R. Gilsoul,**  
**DEFENDANT.**

**DATE: March 9, 2023**

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**ORDER**

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

*Appearing in-person:* Attorney Krystal John, representing Plaintiffs; and Nizohonie R. Gilsoul, Defendant.

**BACKGROUND**

Defendant was issued Maintaining a Chronic Nuisance House citation - 1<sup>st</sup> offense, pursuant to O.C.L. 309.6-7, resulting in a fine of \$250.00 plus \$25.00 court costs. The violation occurred on December 22, 2022. During a citation pre-hearing on February 16, 2023, the parties agreed to a verbal Stipulation and Agreement to amend the original citation to a citation for Nuisance – 1<sup>st</sup> offense, O.C.L. 309.6-6., with a reduction in the fine from \$250.00 to \$100.00. On February 27, 2023, Petitioner’s attorney filed a written stipulation and agreement signed by all parties. The parties’ agreement is incorporated in this order.

**ANALYSIS**

Defendant has made eight emergency calls to police within a 12-month timeframe, signaling Defendant’s possible misuse of police services to resolve either domestic disputes or domestic

abuse between Defendant and her domestic partner. At the hearing, Defendant claims she made the calls to end recurring arguments between Defendant and her domestic partner.

The parties' written Stipulation and Agreement amends the original citation and reduces the fine, and then provides for dismissal of the amended citation upon completion of specified conditions requiring Defendant to seek domestic abuse counseling or other counseling services for herself and her children. The Court accepts the agreement that seeks to address the underlying and recurring domestic disputes between Defendant and her domestic partner.

### **FINDINGS**

The Court finds as follows:

1. The Court has subject matter and personal jurisdiction over this matter.
2. Defendant received proper notice.
3. A citation pre-hearing was held on February 16, 2023, at 10:30 a.m.
4. The Oneida Police Department issued Defendant one citation stemming from an incident occurring on December 22, 2022 between Defendant and her domestic partner at their residence that caused Defendant to make an emergency call to the police. Because the call was the eighth emergency call made by Defendant to police within a 12-month timeframe, Defendant was issued the following citation:
  - a. Maintaining a Chronic Nuisance House – 1<sup>st</sup> Offense, pursuant to 3 O.C.L. 309.6-7, with a \$250.00 fine plus \$25.00 court costs.
5. At the citation pre-hearing, the parties verbally agreed to a stipulation for the following:
  - a. Amend Maintaining a Chronic Nuisance House – 1<sup>st</sup> offense, 309.6-7, to Nuisance – 1<sup>st</sup> offense, 309.6-6, and reduce the fine from \$250.00 to \$100.00 plus \$25.00 court costs; and
  - b. Establishing conditions requiring Defendant to seek domestic violence or other counseling services within a specified timeframe for the citation to be dismissed;
  - c. Defendant acknowledged that her agreement and consent to the stipulation was voluntary.
6. On February 27, 2023, the Nation's attorney filed a written Stipulation and Agreement signed by all the parties. The parties agreed to the following:
  - a. Defendant agreed to a no contest plea to the amended citation: Nuisance – 1<sup>st</sup>

offense, 309.6-6.

- b. The Petitioner's Attorney agreed to dismiss the amended citation on the condition that:
    - i. Defendant obtains domestic abuse counseling or other counseling services for herself and her children; and
    - ii. Within 30 calendar days after the date this order is signed, Defendant shall file the following with the Court:
      - a) proof of enrollment in domestic abuse counseling or other counseling services for herself and her children; and
      - b) documentation of the creation of a care plan.
    - iii. Dismissal of the citation means Defendant is responsible to pay only the \$25.00 court costs.
  - c. If Defendant needs more time to obtain counseling services, Defendant must call the Nation's attorney before expiration of the 30-calendar-day timeframe in order to request more time.
    - i. An extension of time may be provided by Defendant's showing of good reason and the parties file their written agreement with the Court.
  - d. After 45 calendar days from the date this order is signed, if Defendant fails to file proof of enrollment in domestic abuse counseling or other counseling services for herself and her children and a care plan, Defendant shall be required to pay the fine and court costs within 60 calendar days.
7. The Court agrees to the parties' Stipulation and Agreement and incorporates their agreement in this order.

### **PRINCIPLES OF LAW**

#### **Oneida Code of Laws Title 8. Judiciary – Chapter 807 Citations**

Section 807.6-1. *Citation Pre-Hearing.*

(d) At the pre-hearing the Court shall accept pleas which either contest or admit committing the act for which the citation was issued, or a plea of no contest.

(1) If the defendant admits committing the act for which the citation was issued the Court shall provide a statement that by admitting that he or she committed the act for which the

citation was issued the defendant thereby waives his or her right to contest the citation with the Court. The Court shall obtain an affirmative acknowledgment from the defendant of that waiver of rights.

**Oneida Code of Laws Title 3. Health & Public Safety – Chapter 309 Public Peace**

**309.6. Civil Infractions Against the Peace**

**309.6-6. Nuisance.** A person commits the civil infraction of nuisance whenever he or she engages in a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) in any way render the public insecure in life or in the use of property; or
- (c) greatly offend the public morals or decency.

**309.6-7. Maintaining a Chronic Nuisance House.** A person commits the civil infraction of maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring during a twelve (12) month period at the premises that he or she owns or occupies through a lease or rental agreement.

**Oneida Code of Laws Title 8. Judiciary - Chapter 807 Citations**

**807.5. Stipulations**

**807.5-1. Authority for Stipulations and Case Settlement.** An authorized attorney of the Nation is granted the discretion to seek the settlement of a citation.

- (a) When seeking to enter into a stipulation the authorized attorney shall explain to the defendant all provisions included in the stipulation as required by section 807.5-2(a)-(d).

**807.5-2. Form of Stipulation.** Any stipulation between an authorized attorney and the defendant shall be in writing and signed. The stipulation shall include the following:

- (a) A summary of the citation violation information included on the citation;
- (b) The details of the stipulation including any fine, penalty, condition, or payment plan the defendant shall comply with;

(c) A statement that by entering into the stipulation the defendant is admitting that he or she committed the act for which the citation was issued or is entering a plea of no contest and thereby waives his or her right to contest the citation with the Court; and

(d) A statement that all parties signed the agreement free of duress and coercion.

**807.5-3. Submission of the Stipulation to the Court.** If the authorized attorney and defendant reach an agreement through the stipulation, the stipulation shall be submitted to the Court for the Court's approval.

(a) If the Court enters an order approving the stipulation as written, a copy of the order shall be provided to the authorized attorney and defendant.

(b) If the Court does not enter an order approving the stipulation as written or requests clarification, the Court shall schedule the matter for a hearing. The Court shall provide the authorized attorney and defendant notice of the hearing date and written explanation as to why the Court did not approve the stipulation of the parties.

### ORDER

1. The Court accepts Defendant's no contest plea to the amended citation Nuisance – 1<sup>st</sup> offense and finds Defendant guilty.
2. The Court accepts and approves the parties' Stipulation and Agreement as incorporated in this order and described below:
  - a. Dismissal of the amended citation if Defendant files with the Court proof of enrollment in domestic counseling or other counseling services for herself and her children and a care plan within 30 calendar days, **on or before April 10, 2023.**
  - b. Fine - \$100.00 to be payable to the Oneida Judiciary **on or before May 10, 2023**, if Defendant fails to satisfy the conditions within 45 calendars, **on or before April 25, 2023.**
3. Court costs - \$25.00 shall be paid by Defendant to the Oneida Judiciary within 30 calendar days, **on or before April 10, 2023.** 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 Oncida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council, this Order was signed on March 9, 2023.



Patricia Ninham Hoeft, Trial Court Judge