

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation / Oneida Police Department,
Plaintiffs;

v.

Case No: 23-CT-028
Date: May 22, 2023

April L. King,
Defendant.

FINAL ORDER AND JUDGMENT

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

Appearing in person: Attorney Kelly McAndrews, representing Plaintiffs; April L. King, Defendant, and Atty. Gerald L. Hill, representing Defendant.

BACKGROUND

On February 14, 2023, Defendant was issued a citation for violating O.C.L. 304.10-1, Possessing a Dangerous Animal – 2nd offense, for failing to comply with a court order issued 16 months ago requiring the dog to be removed outside the Oneida Nation Reservation boundaries or euthanized. On May 18, 2023, a pre-trial citation hearing was held where the parties entered a written stipulation for the Court’s consideration. The Court accepted and approved the stipulation. On May 22, 2023, Defendant filed proof their dog was euthanized on May 18, 2023.

FINDINGS OF FACT

The Court finds as follows:

1. The Court has subject matter and personal jurisdiction over this matter.
2. All entitled to notice received notice.
3. On October 20, 2021, Defendant was issued a citation for violating O.C.L. 304.10-1, Possessing a Dangerous Animal – 1st offense and a Declaration of Dangerousness for Defendant’s dog, Kylo.
4. On January 20, 2022 at a pre-trial citation hearing, the Court ordered Defendant to remove the dog, Kylo, from the Oneida Nation Reservation or euthanize the dog on or before January 27, 2022 or pay a \$500.00 fine plus \$25.00 court costs.
5. On November 8, 2022 at a pre-trial citation hearing, the Court found Defendant failed to euthanize or remove the dog, Kylo, from the Reservation. The Court ordered the following:

- a. Defendant to pay a \$500.00 fine plus \$25.00 court costs;
 - b. The Oneida Police Department or Oneida Conservation Warden to seize the dog, Kylo, to enforce compliance with the order at the cost of the owner; and
 - c. The OPD or Warden shall provide the Court with proof that the dog was seized.
6. On February 14, 2023, the Oneida Police Department cited Defendant with a citation for violating O.C.L. 304.10-1, Possessing a Dangerous Animal – 2nd offense and fined \$1,000.00 plus \$25.00 court costs, for the following incident:
- a. Defendant’s dog, Kylo, continued to reside at Defendant’s residence 16 months after the Court ordered Defendant to euthanize or remove the dog outside the Oneida Nation Reservation boundaries to reside with a new owner.
7. On May 18, 2023 at a pre-trial citation hearing, the following took place:
- a. Defendant acknowledged her rights and provided the Court with a signed copy of the Acknowledgement of Rights form;
 - b. The parties entered, and the Court approved, a written stipulation agreeing to the following:
 - i. Defendant entered the plea of Admit;
 - ii. Plaintiff’s attorney agreed to reduce the \$1,000.00 fine to zero if Defendant performs the following conditions on or before May 26, 2023:
 - 1. Surrenders the dog, Kylo, to the Fox Valley Humane Society or euthanizes the dog; and
 - 2. Provides the Court with proof that Defendant complied with the conditions.
8. On May 18, 2023, Defendant paid the \$25.00 court costs.
9. On May 22, 2023, Defendant filed with the Court proof that the dog, Kylo, was euthanized on May 18, 2023.

PRINCIPLES OF LAW

304.10. Dangerous Animals

304.10-1. *Dangerous Animals.* No person shall own, keep, possess, return to or harbor a dangerous animal. An animal shall be presumed to be dangerous if the animal:

- (a) approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack;
- (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal;
- (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or
- (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any other jurisdiction.

304.10-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the dangerous animal determination, he or she shall file with the Trial Court a written objection to

the order within three (3) business days of receipt of the order.

(a) The written objection shall include specific reasons for objecting to or contesting the order. An owner may argue an animal should not be deemed dangerous due to the animal biting, attacking or menacing any person and/or domestic animal because the animal was acting to:

- (1) defend its owner or another person from an attack by a person or animal;
- (2) protect its young or another animal;
- (3) defend itself against any person or animal which has tormented, assaulted or abused it; and/or
- (4) defend its owner's property against trespassers.

(b) Pending the outcome of the hearing, the animal shall be securely confined in a humane manner either on the premises of the owner or caretaker, or with a licensed veterinarian.

304.10-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal determination shall be held within fourteen (14) days of submission of the written objection with the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the animal is dangerous should be substantiated.

(a) If the Trial Court concludes that the determination that the animal is dangerous is substantiated, then the Trial Court shall issue an order that mandates the animal be removed from the Reservation within forty-eight (48) hours of the determination.

(1) The order shall contain the requirement that the owner notify the Oneida Police Department within twenty-four (24) hours if the dangerous animal has been sold or been given away. If the dangerous animal has been sold or given away, the owner shall also provide the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the owner shall present evidence to the Oneida Police Department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner. The Oneida Police Department shall forward all such notifications to the Environmental, Health, Safety, and Land Division within a reasonable amount of time.

(b) The Trial Court may order a dangerous animal to be destroyed. If such an order is issued, the Trial Court shall require the owner submit proof of destruction within five (5) business days from a licensed veterinarian. If the owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.

Analysis

At the May 18, 2023 pre-trial citation hearing, the parties entered a stipulation and agreement that the \$1,000.00 fine would be vacated if Defendant removed the dog, Kylo, from the Oneida Reservation or euthanized the dog. The Court approved the stipulation. On May 22, 2023, Defendant filed proof that the dog was euthanized on May 18, 2023. Because Defendant complied with the agreement, this matter is satisfied.

Order

1. The Court accepts Defendant's Admit plea to the citation, O.C.L. 304.10-1, Possessing a Dangerous Animal.
2. The Court finds Defendant guilty.
3. This Stipulation and Agreement as incorporated in this order is approved.
4. Defendant filed with the Court proof that the dog, Kylo, was euthanized on May 18, 2023.
5. Defendant's \$1,000.00 fine is vacated to \$0.00.

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 Oneida Trial Court pursuant to Resolution 01-07-13-B of the General Tribal Council, this order was signed on May 22, 2023.


Patricia Ninham Hoeft, Trial Court Judge