

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
Plaintiffs;**

v.

**Case No: 23-CT-051
23-CT-052**

Date: May 31, 2023

**Arthur V. Skenadore,
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, Officer Brian Doxtator, Oneida Police Department; Arthur Skenadore, Defendant.

BACKGROUND

On May 16, 2023, the Oneida Police Department (OPD) issued Defendant two citations for violating Oneida Code of Laws (O.C.L.) Domestic Animals for an incident that occurred on May 15, 2023 when Defendant's dog bit a child. On May 17, 2023, the OPD issued Defendant a Dangerous Animal Determination requiring Defendant to remove his dog from the Oneida Reservation within three business days. On May 19, 2023, Defendant filed a written objection to the Trial Court to contest the dangerous animal determination. On May 31, 2023, a contested hearing was held at which time the parties presented a written stipulation for the Court's consideration. The Court approved the stipulation.

FINDING OF FACTS

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. The OPD issued Defendant two citations and a dangerous animal determination letter for an incident that occurred on May 15, 2023 when Defendant's dog bit a child.
4. Defendant's dog is a black Chihuahua named Ohkwali.
5. On May 16, 2023, the OPD issued the following two citations to Defendant:
 - a. Animal Running At Large, O.C.L. 304.6-4 – 1st offense, \$75.00 fine plus \$25.00 court costs; and
 - b. Possessing a Dangerous Animal, O.C.L. 304.10-1 – 1st offense, \$500.00 fine plus \$25.00 court costs.
6. On May 17, 2023, the OPD issued a Dangerous Animal Determination letter to Defendant requiring Defendant to remove his dog from the Oneida Reservation within three business days after receiving the determination letter.
7. On May 19, 2023, Defendant filed a written objection with the Trial Court to contest the dangerous animal determination.
8. At the contested hearing on May 31, 2023, Defendant appeared without legal representation. Defendant was provided a copy of the Acknowledgement of Rights form and he signed the form.
9. At the hearing, the parties were provided an opportunity to discuss a possible stipulation. The parties' presented a written stipulation for the Court's consideration. The parties' stipulation included the following:
 - a. Regarding citation 304.10-1, Possessing a Dangerous Animal, and the dangerous animal determination, the parties agreed as follows:
 - i. Defendant entered a No Contest plea;
 - ii. **On or before June 7, 2023**, Defendant is required to remove the dog, Ohkwali, from the Oneida Reservation and provide the Trial Court with proof of the dog's new location.
 1. **Proof means the dog's new owner's name, address, and telephone number;**
 - iii. Plaintiff's attorney agreed to reduce the \$500.00 fine to zero if Defendant removed his dog, Ohkwali, from the Oneida Reservation, as ordered;
 - iv. **On or before June 7, 2023**, Defendant must provide the dog's new owner's name, address, and telephone number to the law enforcement

agency where the new owner resides;

- v. The Court will provide the new owner's information to the OPD. OPD is required to provide proof of Ohkwali's new address/location to the Oneida Environmental Health, Safety and Land Division.
 - b. Regarding citation 304.6-4, Animal Running At Large – 1st offense, \$75.00 fine plus court costs, the parties agreed to dismiss this citation.
 - c. Finally, if Defendant fails to remove the dog from the Oneida Reservation and provide proof to the Trial Court of the dog's new location **on or before June 7, 2023**, the stipulation will be vacated requiring Defendant to pay the \$500.00 fine and authorize OPD to seize the dog.
10. The Court approved the parties' stipulation.

PRINCIPLES OF LAW

Oneida Code of Laws Title 3. Health and Public Safety - Chapter 304 Domestic Animals

304.6-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a leash under the control of a person physically able to control the animal.

- (a) A stray dog or cat running at large may be referred to the Oneida Police Department or Oneida Conservation Department.
- (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat running at large, the officer and/or warden shall, if possible, pick up and impound such animal.
- (c) Whenever any impounded animal bears an identification mark, such as a collar with identification tags or license tag, the owner shall be notified as soon as reasonably possible.

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.

304.10-2. Dangerous Animal Determination. An Oneida Police Officer or Oneida Conservation Warden may determine an animal to be dangerous whenever, upon investigation, the officer finds that the animal meets the definition of dangerous animal provided in section 304.10-1.

(a) Upon making a determination that an animal is dangerous, the Oneida Police Officer or Oneida Conservation Warden shall issue a written order with an accompanying citation declaring the animal to be dangerous.

(b) The citation and order shall be personally delivered to the apparent owner or custodian of the dangerous animal.

(c) Upon receipt of the written order and accompanying citation the owner shall remove the dangerous animal from the Reservation within three (3) business days

ANALYSIS

Defendant's dog, a black Chihuahua named Ohkwali, ran loose from Defendant's yard and bit a child. Under Oneida Nation law governing domestic animals, owners of dogs are prohibited from allowing their dog to run loose and not under control of a person. Dogs that bite human beings are presumed to be dangerous. Persons residing within the Nation's Reservation boundaries are prohibited from possessing a dangerous dog. Here, the OPD determined the dog, Ohkwali, to be a dangerous dog after finding Ohkawli bit a child. The OPD issued Defendant two citations and a determination letter finding the dog to be a dangerous animal because it bit a child. Defendant filed a written objection to contest the determination. A hearing was held on May 31, 2023, at which time Defendant was provided an opportunity to prove Ohkwali was not dangerous. Defendant appeared at the hearing without legal representation. Defendant admitted he did not understand this hearing was different and separate from the hearing dates listed on each of the citations, but agreed to continue with the hearing. During the hearing and after the Court provided the parties with time to talk to each other to resolve this matter on their own, the parties presented a written agreement to the Court for consideration. Because the agreement was reasonable, the Court approved it.


ORDER

1. The Court accepts Defendant's No Contest plea to the citation, O.C.L. 304.10-1, Possessing a Dangerous Animal and finds Defendant guilty.
2. The Stipulation and Agreement as incorporated in this order is approved.
3. The fine amount of \$500.00 is stayed, pending completion of the stipulation **on or before June 7, 2023.**
4. Defendant is required to remove the dog, Ohkwali, from the Oneida Reservation **on or before 4:30 p.m. June 7, 2023.**
5. **On or before June 7, 2023**, Defendant is required to provide proof of the dog, Ohkwali's new location outside the Oneida Reservation boundaries to the following entities:
 - a. The Trial Court, and
 - b. The law enforcement agency governing the new owner's residential area.
6. If Defendant fails to provide proof of the dog's new location and new owner information as ordered, this Final Order and Judgment shall be vacated and Defendant will be ordered to pay the \$500.00 fine, and the OPD shall seize the Ohkwali.
7. The citation, O.C.L. 304.6-4, Animal Running At Large – 1st offense, \$75.00 fine, is dismissed.
8. Defendant is required to pay \$25.00 court costs within 30 days after this order is signed or **on or before June 30, 2023.**
 - a. The total amount due is payable to the Oneida Judiciary and may be paid at the Oneida Judiciary or by calling the Trial Court Clerk at (920) 469-7200. Failure to pay is subject to the Nation's laws and remedies.

The parties have the right to appeal within 5 business days after this order is signed 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 was signed on May 31, 2023.


Patricia Ninham Hoeft, Trial Court Judge