

ONEIDA JUDICIARY

Tsi nu téshakotiya?tolétha?

TRIAL COURT

Oneida Nation / Oneida Police Department
Petitioners,

v.

CASE NO: 23-CT-056

DATE: June 7, 2023

Alana M. James,
Defendant,

ORDER

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

Background

In accordance with 3 O.C. 304.10, Domestic Animal Law, Defendant was cited for *Possessing a Dangerous Animal, 1st Offense*, resulting in a *Determination of Dangerousness*. The alleged violation and Determination of Dangerousness was the result of an incident that occurred on April 21, 2023, with a black and tan mixed German Shepherd/Hound named “TYCO”. This citation does not require the Defendant to appear, but the Determination of Dangerous is a mandatory appearance. A hearing on the citation and Determination of Dangerousness was scheduled on June 9, 2023. On June 7, 2023, the Petitioners motioned the Court to vacate the Determination of Dangerousness, dismiss the Possessing a Dangerous Animal citation and to remove the scheduled June 9, 2023, hearing from the Court’s calendar.

Principles of Law

Title 8. Rules of Civil Procedure – Chapter 803

803.21. Dismissal of Action

803.21-1. *Voluntary Dismissal.*

(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

Pursuant to 3 O.C. 304.10, Defendant was cited for *Possessing a Dangerous Animal*, which further resulted in a Determination of Dangerousness for a black and tan mixed German Shepherd named "TYCO". The Domestic Animal Ordinance allows for an owner to appeal the Determination of Dangerousness within (3) three days from receiving the determination, as a result, the Trial Court shall hold a hearing on this matter within (14) fourteen days from Defendant filing his or her appeal to the Court. Here, the Defendant complied with properly objecting to the Determination of Dangerousness and the Court proceeded to schedule a hearing on June 9, 2023, to make a determination whether the Determination of Dangerousness is substantiated.

On June 7, 2023, Petitioners motioned the Court to vacate the Determination of Dangerousness and dismiss Possessing a Dangerous Animal citation due to Petitioners not able to maintain prosecution. The Court agrees.

Findings 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. On April 21, 2023, the Oneida Police Department cited Defendant with 23-CT-056; *Possessing a Dangerous Animal* citation, 1st Offense.
4. On May 31, 2023, the Oneida Police Department cited Defendant with a Determination of Dangerousness for "TYCO".
5. Defendant's dog is a mixed black and tan German Shepherd named "TYCO".
6. A Dangerous Animal Determination Hearing was scheduled on June 9, 2023.
7. On June 7, 2023, Petitioners motioned the Court to vacate the Determination of Dangerousness, dismiss Possessing a Dangerous Animal citation, and as a result, remove the scheduled June 9, 2023, hearing from the Court's calendar.

Order

1. Determination of Dangerousness for the mixed German Shepherd "TYCO" is VACATED.
2. 304.10-1, Possessing a Dangerous Animal, 1st Offense citation is DISMISSED.
3. The June 9, 2023, Determination of Dangerousness hearing shall be removed from the Court's calendar.
4. Case 23-CT-056 is closed.

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 is signed on June 7, 2023.



John E. Powless III, Trial Court Judge