

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

**Oneida Nation / Oneida Police Department,
Petitioners**

v.

Case No: 23-CT-062
Date: August 11, 2023

**Margaret R. Cornelius,
Defendant**

ORDER

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

Appearing In-person: Petitioners' Attorney, Kelly McAndrews.

Non-Appearance: Defendant, Margaret R. Cornelius.

Background

Defendant was issued a citation for Animal Running at Large, 4th Offense, for violating Oneida Code of Laws section 304.6-4, stemming from an incident that occurred on May 23, 2023. A pre-trial hearing was scheduled for August 17, 2023. On July 11, 2023, the Court entered an order stating all relevant citation violations for Defendant will be heard on the same day, therefore, a pre-trial hearing was scheduled for July 20, 2023. An initial pre-trial hearing was held July 20, 2023. The Defendant did not appear. At the hearing, the Court emphasized the importance of addressing this matter with the Defendant, due to previous Running at Large violations. As a result, the Court granted a continuance of the pre-trial hearing. A pre-trial hearing was held August 10, 2023. The Defendant did not appear.

Principles of Law

Title 3. Judiciary – 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.

Title 8. Judiciary – Chapter 803 Oneida Rules of Civil Procedure:

803.29. Default; Default Judgment

803.29-2. Defendant. When a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in this Law or elsewhere, a default judgment may be granted by the Court upon the receipt of whatever evidence is deemed necessary to establish the claim.

Title 8. Judiciary – Chapter 807 Citations:

807.6 Hearing Procedure

807.6-1. *Citation Pre-Hearing.*

(f) If a defendant does not appear at the pre-hearing or submit written notice that he or she is contesting the citation when there is a non-mandatory appearance, and the defendant has not entered into a stipulation or paid the fine and/or penalty as listed on the citation, the Court may proceed to enter a default judgment.

(1) A default judgment may include any fine amount due, restitution, suspension of any rights, privileges, or licensures, and/or any other penalty authorized by law.

Analysis

In accordance with 3 O.C. 304.6-4, Defendant was cited for violating Animal Running at Large, 4th Offense for an incident that occurred on May 23, 2023. At a pre-trial hearing on July 20, 2023, the Court granted a continuance for this matter, due to Defendant's non-appearance. A pre-trial hearing was held August 10, 2023, at which time, Defendant still did not appear. At the hearing, Petitioners requested to amend Animal Running at Large, 4th Offense to a 3rd Offense to identify the proper offense.

Default Judgment:

Pursuant to 8 O.C. 803.29-2 and 807.6-1(f), when a party against whom a judgment for relief has failed to appear, enter into a stipulation or paid the citation fine and court costs, a default judgment may be granted by the court upon the receipt of whatever evidence is deemed necessary to establish the claim. In this case, Defendant failed to appear after being properly

noticed of the action. Petitioners put on evidence to establish their claim and the Court finds that the citation was property issued. Therefore, the Court found Defendant in default and entered an order which included sanctions.

Finding of Facts

The Court finds as follows:

1. The Court has subject matter and personal jurisdiction over this matter.
2. All those entitled to notice received notice.
3. The Oneida Police Department cited Defendant Animal Running at Large, 4th Offense, for violating 3 O.C. 304.6-4 on May 23, 2023.
4. A pre-trial hearing was held August 10, 2023.
 - a. The Defendant did not appear.
 - b. The Court found Defendant in default for failure to appear.
5. At the hearing, Petitioners requested to amend Animal Running at Large, 4th Offense to the same violation, 3rd Offense, the request is approved by the Court.

Order

A default judgment is entered in favor of the Petitioners and against the Defendant in the amount as follows:

Animal Running at Large – 3rd Offense – 304.6-4.

Fine:	\$500.00
Court Costs:	<u>\$25.00</u>
Total Amount owed by Defendant:	\$525.00

The total amount due is payable to the Oneida Judiciary **within ninety (90) calendar days** from the date this Order is signed. Failure to pay is subject to the Nation’s laws and remedies.

The parties have the right to appeal 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 August 11, 2023.



John E. Powless III, Trial Court Judge