

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

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

CASE NO: 23-CT-078

v.

**Jonni L. Webster,
Defendant.**

DATE: September 28, 2023

DEFAULT JUDGMENT

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

Appearing In-person: Plaintiffs' attorney, Krystal L. John.

Non-appearance: Defendant, Jonni L. Webster.

BACKGROUND

On June 26, 2023, Defendant was issued a citation for the alleged violation of O.C.L. 304.6-4, Animal Running At Large – 1st offense, resulting in a \$75.00 fine and \$25.00 court costs. On September 21, 2023, a citation pre-trial hearing was held. Defendant did not appear. Plaintiffs' attorney motioned to find Defendant in default and grant a default judgment against Defendant.

FINDING OF FACTS

1. The Court has subject matter and personal jurisdiction over this matter.
2. Defendant received proper notice.
3. On June 26, 2023, Defendant was issued a citation for allegedly violating O.C.L. 304.6-4, Animal Running At Large – 1st offense, and fined \$75.00 plus \$25.00 court costs.
4. Defendant is owner of a dog with black and tan markings that was running loose in Defendant's neighborhood and not under control of Defendant.
 - a. Defendant resides at N7018 Cornelius Circle, Oneida, WI.
5. An Oneida Police Department (OPD) officer directly observed the dog with black and tan

markings run to Defendant's residence where the officer was interviewing Defendant about the loose dog complaint; while interviewing Defendant, the officer ordered Defendant to secure her dog under control.

6. During the interview, Defendant admitted she did not have her dog's vaccination records.
7. After the interview with Defendant, the OPD officer personally delivered the citation to Defendant. The citation correctly listed the date, time, and location of the citation pre-trial hearing, and instructions for how to pay the fine or dispute the charge.
8. On September 21, 2023, a citation pre-trial hearing was held, and Defendant did not appear.
9. Prior to this hearing, Defendant did not pay the fine, file written notice of her intention to contest the citation, nor did Defendant enter into a stipulation with the Plaintiffs' attorney.
10. At the citation pre-trial hearing, Plaintiffs' attorney motioned the Court to find Defendant in default and grant a default judgment against Defendant.
11. Plaintiffs' attorney presented clear and convincing evidence that Defendant violated O.C.L. 304.6-4, Animal Running At Large – 1st offense.

PRINCIPLES OF LAW

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

304.6-1. License Required. An owner shall be required to obtain a license for any dog or cat five (5) months of age or older on an annual basis.

304.6-2. Rabies Vaccinations Required. An owner shall be required to obtain a rabies vaccination for any dog or cat five (5) months of age or older.

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.

O.C.L. Title 8. Judiciary – Chapter 807 Citations

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.

O.C.L. Title 8. Judiciary – Chapter 801 Judiciary, Rule #1 – Oneida Trial Court Rules

1.5 Default Judgment

1.5-1. If a party fails to appear at any Trial Court matter, the Court shall confirm and be satisfied that proper notice was provided.

1.5-3. If the Trial Court finds that proper notice was provided, the Trial Court may enter judgment against the party that failed to appear. The Trial Court, in its discretion, may require a party to produce sufficient evidence to support a judgment against the other party.

O.C.L. Title 8. Judiciary – Chapter 803 Oneida Judiciary Rules of Civil Procedure

803.29-6. Setting Aside a Default or a Default Judgment. The Court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 803.33-2 within one (1) year of entry of default or default judgment.

ANALYSIS

Defendant was cited for an alleged violation of O.C.L. 304.6-4, Animal Running At Large – 1st offense. Defendant was required to appear at a citation pre-trial hearing on September 21, 2023, to plead or otherwise defend against an alleged violation. A defendant's failure to appear may result in finding the defendant guilty and a default judgment entered against the defendant. In this case, Defendant did nothing prior to the hearing and did not attend the hearing. Because Defendant did not pay the fines and court costs prior to the hearing, provide written

notice prior to the hearing that Defendant intended to contest the citation, request more time, or worked with Plaintiffs' attorney on a stipulation, the Court found Defendant in default and required Plaintiffs' attorney to provide evidence to support a default judgment.

In support of a default judgment, Plaintiffs' attorney provided the OPD officer's police report as evidence. The report showed that the complaint was reported by Mr. Floyd W. Silas, Jr., who witnessed Defendant's dog attack Mr. Silas' dog in his yard. According to the report, the OPD officer interviewed Defendant at her residence shortly after responding to Mr. Silas' complaint and the officer directly witnessed Defendant's dog run to Defendant's residence. While talking to Defendant, the officer observed Defendant's dog running loose in Defendant's front yard. As a result, the officer instructed Defendant to secure her dog and then the officer personally issued a citation to Defendant. Finally, the Nation's law requires owners to vaccinate dogs and obtain a license for their dogs. Because the police report indicated Defendant admitted she did not have the dog's vaccination records at the time she was being interviewed by the officer, the Court will order Defendant to file proof of licensure and vaccination.

Thus, the Court finds Plaintiffs' attorney presented clear and convincing evidence Defendant violated O.C.L. 304.6-4, Animal Running At Large – 1st Offense. Because Defendant failed to appear, failed to contest the citation and failed to dispute the facts presented by Plaintiffs' attorney, the Court grants a default judgment against Defendant.

ORDER

A default judgment is entered in favor of Plaintiffs and against Defendant as follows:

1. The Court finds Defendant **GUILTY**.
2. **23-CT-078: O.C.L. 304.6-4, Animal Running At Large – 1st offense.**

Fine:	\$ 75.00
Court Costs:	<u>+ \$ 25.00</u>
Amount owed by Defendant:	<u>\$100.00</u>
3. Defendant shall pay the \$75.00 fine plus \$25.00 court costs to the Oneida Judiciary within thirty (30) days after this order is signed or **on or before October 30, 2023**.
4. Defendant shall provide the Court with proof that Defendant's dog is vaccinated and licensed with the Oneida Nation **on or before November 27, 2023**.

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 September 28, 2023.



Patricia Ninham Hoeft, Trial Court Judge