

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

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

v.

**CASE NO: 24-CT-026
24-CT-027**

**Joshua J. Bailey,
Defendant.**

DATE: September 10, 2024

DEFAULT JUDGMENT

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

Appearing in-person: Attorney Carl Artman, representing Plaintiffs.

Non-appearance: Joshua J. Bailey, Defendant.

BACKGROUND

On August 15, 2024, a citation pre-trial hearing was held. Defendant did not appear at the hearing. Two citations were issued to Defendant for alleged violations of O.C.L. 304.6-4, Animal Running at Large. The Court found Defendant in default for his non-appearance. Plaintiffs' attorney motioned for a default judgment to order Defendant to pay the fines and court costs for both citations. The Court granted Plaintiffs' attorney's motion for a default judgment against Defendant.

FINDING OF FACTS

1. The Court has subject matter and personal jurisdiction over this matter.
2. The Defendant received proper notice.
 - a. An Oneida Police Department officer hand-delivered the two citations to Karlee Waukau at Defendant's residence.
3. On July 15, 2024, the Court mailed Defendant a copy of the "Acknowledgement of Rights" form along with a notice of the citation pre-trial hearing for the two citations issued to Defendant.

4. The Defendant was issued the following two citations:
 - a. 24-CT-026, O.C.L. 304.6-4. *Running at Large*, 2nd offense
 - \$150.00 fine and \$25.00 court costs
 - Date of violation was May 17, 2024
 - b. 24-CT-027, O.C.L. 304.6-4. *Running at Large*, 3rd offense
 - \$500.00 fine and \$25.00 court costs
 - Date of violation was May 21, 2024
5. At the citation pre-trial hearing on August 15, 2024, the Defendant did not appear.
 - a. Prior to the scheduled pre-trial hearing, the Defendant did not provide the Court with any written notice to contest the violations, payment of the citations, or settlement agreement with the Plaintiffs.
6. The Court found Defendant in default for failure to appear at the citation pre-trial hearing.

PRINCIPLES OF LAW

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

304.6. Dogs and Cats

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.

Oneida Code of Laws, Title 8. Judiciary - Chapter 807 Citations

807.4-4. *Service of a Citation*. The defendant is served with a citation when one of the following occurs:

- (a) Personal Service. The citation is provided to the defendant directly by the officer, or a copy of the citation is left at the defendant's home or usual place of abode by the officer:
 - (1) in the presence of a competent family member at least fourteen (14) years of age who shall be informed of the contents of the citation;

807.6-1. Citation Pre-Hearing.

(a) Appearance at the pre-hearing shall be mandatory only when a law, policy, rule, or resolution of the Nation requires a mandatory appearance for that specific violation of law.

(c) If a person wishes to contest the citation, the person shall provide notice to the Court in one (1) of the following manners:

(1) appear at the pre-hearing to contest the citation; or

(2) if an appearance is not mandatory, send written notice to the Court, with a copy to the Oneida Law Office, prior to the pre-hearing notifying the Court that the defendant wishes to contest the citation.

(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.

(2) Unless otherwise noted by the Court, a defendant shall have ninety (90) days to satisfy a default judgment by paying any fine and/or complying with any condition or penalty ordered.

807.6-3. Appeals of the Court's Determinations. Any person wishing to contest the determination of the Court may appeal to the Nation's Court of Appeals in accordance with the Rules of Appellate Procedure.

ANALYSIS

A default judgment may be entered against a defendant who fails to appear at a scheduled hearing if the Court finds proper notice was provided. Here, Defendant was provided proper service and did nothing prior to the hearing to resolve either of the two citations. Plaintiffs' attorney motioned the Court for a default judgment, presenting the two citations showing the Oneida Police Department (OPD) officer completed personal service by leaving the citations at Defendant's residence with Karlee Waukau. Because Defendant did not appear at the scheduled citation pre-trial hearing and did nothing prior to the hearing to resolve the citations, the Court

finds Defendant in default for failure to appear at the citation pre-trial hearing. Therefore, the Court grants Plaintiffs' motion for a default judgment.

ORDER

1. A default judgment is entered in favor of Plaintiffs and against the Defendant in the following amounts:

a) **24-CT-026**, 304.6-4. *Running at Large*, 2nd offense

Fine \$ 150.00

Court costs \$ 25.00

Amount owed by Defendant \$ 175.00

b) **24-CT-027**, 304.6-4. *Running at Large*, 3rd offense

Fine \$ 500.00

Court costs \$ 25.00

Amount owed by Defendant \$ 525.00

2. The Court finds Defendant GUILTY for citations 24-CT-026 and 24-CT-027.

3. Defendant shall pay the total amount of \$700.00 to the Oneida Judiciary within 180 calendar days from the date this Order is signed which is **on or before March 6, 2025**.

a) Failure to pay is subject to the Nation's laws and remedies.

4. 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 September 10, 2024.



Patricia Ninham Hoeft, Trial Court Judge