

ONEIDA JUDICIARY
Tsi nu téshakotiya?tolétha?

TRIAL COURT

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

v.

Case No: 24-CT-029

**Robert J. Lagest,
Defendant**

ORDER

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

Appearing In-person: Plaintiffs' attorney, Kelly McAndrews; Defendant, Robert J. Lagest.

Background

On August 20, 2024, Defendant was issued a dangerous animal determination letter and a citation for allegedly violating the Oneida Nation's Domestic Animals law, Oneida Code of Laws (O.C.L.) 304.10. The alleged incident took place on August 19, 2024, when Defendant's dog is accused of biting a child. The declaration was issued after the incident was investigated by an Oneida Police Department officer. The declaration requires the dog's owner to remove the dog outside the Oneida Nation reservation boundaries within three (3) business days after receiving the declaration. On August 22, 2024, Defendant filed a written objection to the dangerous animal determination to the Trial Court; as a result, the requirement to remove the dog from the Oneida Reservation is automatically stayed pending the outcome of a hearing on the dangerousness determination. At a hearing on September 3, 2024, the parties proposed a stipulation and agreement to the Court for consideration.

Principle of Law

Title 3. Oneida Judiciary – Chapter 304: Domestic Animals
304.10. Dangerous Animals

304.10-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the dangerous animal determination, he or she shall file with the Trial Court a written objection to the order within three (3) business days of receipt of the order.

(a) The written objection shall include specific reasons for objecting to or contesting the order. An owner may argue an animal should not be deemed dangerous due to the animal biting, attacking or menacing any person and/or domestic animal because the animal was acting to:

- (1) defend its owner or another person from an attack by a person or animal;
- (2) protect its young or another animal;
- (3) defend itself against any person or animal which has tormented, assaulted or abused it; and/or
- (4) defend its owner's property against trespassers.

304.10-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal determination shall be held within fourteen (14) days of submission of the written objection with the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the animal is dangerous should be substantiated.

(a) If the Trial Court concludes that the determination that the animal is dangerous is substantiated, then the Trial Court shall issue an order that mandates the animal be removed from the Reservation within forty-eight (48) hours of the determination.

(1) The order shall contain the requirement that the owner notify the Oneida Police Department within twenty-four (24) hours if the dangerous animal has been sold or been given away. If the dangerous animal has been sold or given away, the owner shall also provide the name, address, and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the owner shall present evidence to the Oneida Police Department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner. The Oneida Police Department shall forward all such notifications to the Environmental, Health, Safety, and Land Division within a reasonable amount of time.

(b) The Trial Court may order a dangerous animal to be destroyed. If such an order is issued, the Trial Court shall require the owner submit proof of destruction within five (5) business days from a licensed veterinarian. If the owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.

(c) The Trial Court may mandate attendance at an additional Trial Court hearing if restitution is appropriate.

Analysis

The Defendant was cited for Possessing a Dangerous Animal, 1st Offense, this charge carries a \$500.00 fine. At Trial, the parties stipulated to an agreement and proposed to the Court for

consideration. The agreement identifies the Defendant Admits to Possessing a Dangerous Animal, 1st Offense, therefore, the Defendant is Guilty of that charge. As a result, Defendant further agreed to behavioral euthanasia of “JD” by Thursday, September 5, 2024, and provide proof of euthanasia to Attorney McAndrews by Friday, September 6, 2024. The parties also agree to dismiss the citation fine of \$500.00 and other applicable costs or fees because of the incurred euthanasia expenses. Last, the Defendant agreed to this agreement free of duress or coercion.

Finding of Facts

1. The Court has subject matter and personal jurisdiction over this matter.
2. Defendant was issued a citation for Possessing a Dangerous Animal, 1st Offense and received proper notice of this hearing.
3. At Trial, the parties stipulated to an agreement and proposed the following:
 - a. Defendant Admits to Possessing a Dangerous Animal, 1st Offense, therefore, Guilty of charge.
 - b. Parties agreed to dismiss \$500.00 citation fine and other applicable fees.
 - c. Parties agreed to the behavioral euthanasia of “JD” by Thursday, September 5, 2024.
 - d. Defendant agreed to provide proof of euthanasia of “JD” to Plaintiffs on Friday, September 6, 2024.


Order

The Court enters the following order:

1. The Court accepts Defendant’s ADMISSION and is therefore GUILTY of Possessing a Dangerous Animal, 1st Offense.
2. The Court shall dismiss the associated \$500.00 citation fine and any other applicable fees.
3. The Defendant shall euthanize “JD” by Thursday, September 5, 2024, and provide proof to Plaintiffs by Friday, September 6, 2024.

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 4, 2024.



John E. Powless III, Trial Court Judge