

**ONEIDA JUDICIARY**  
Tsi nu téshakotiya?tolétha?

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**TRIAL COURT**

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

**v.**

**CASE NO: 24-CT-033**

**DATE: November 26, 2024**

**Kassandra L. Powless,  
Defendant.**

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**ORDER**

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

*Appearing by telephone:* Atty. Krystal John, on behalf of Plaintiffs.

*Not appearing:* Kassandra L. Powless, Defendant.

**BACKGROUND**

Defendant was issued a citation for the alleged violation of the Oneida Code of Laws (O.C.L.), Chapter 309, Public Peace. The citation was issued for a violation of 309.9-8, Possession of Prohibited Drugs, stemming from an incident on September 9, 2024. The first offense violation carries a \$250.00 fine plus \$25.00 for court costs. On November 21, 2024, a citation pre-trial hearing was held. Defendant did not appear.

**FINDINGS OF FACT**

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. The Oneida Police Department (OPD) issued Defendant the following citation:
  - a. 24-CT-033, Possession of Prohibited Drugs, O.C.L. 309.9-8 – 1<sup>st</sup> offense, \$250.00 fine plus \$25.00 court costs stemming from an incident on September 9, 2024.

4. On November 21, 2024, a citation pre-trial hearing was held.
5. Defendant did not appear at the hearing.
6. Prior to the hearing, the Court did not receive payment from Defendant of the fine.
7. Prior to the hearing, the Court did not receive any communication from Defendant to obtain permission to be excused from the hearing or to reschedule the hearing to a later date.
8. The Court found Defendant in default for failing to appear at the hearing.

### **ANALYSIS**

At the November 21, 2024 citation pre-trial hearing, Defendant did not appear. When a Defendant is properly notified of the hearing and does nothing prior to the hearing and does not attend the hearing, the Court may find Defendant in default and enter a judgment. In this case, the Court received no communication or payment of the fine from Defendant prior to the hearing. Thus, the Court finds Defendant in default for not appearing. During the hearing, Plaintiffs' attorney motioned the Court to enter a default judgment against Defendant for the full amount of the fine and court costs. The Court finds the motion reasonable. Thus, the Court grants the motion and finds Defendant guilty. Therefore, the Court orders Defendant to pay the fine and court costs within 60 days after this order is signed.

### **PRINCIPLES OF LAW**

#### **O.C.L. Title 3. Health & Public Safety – Chapter 309 Public Peace**

**309.9-8. *Possession of Prohibited Drugs.*** A person commits the civil infraction of possession of prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any drug paraphernalia.

#### **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.

**803.33-2. *Grounds for Relief from a Final Judgment, Order, or Proceeding.*** On motion and just terms, the Court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (a) Mistake, inadvertence, surprise, or excusable neglect;
- (b) Newly discovered evidence that, with reasonable diligence, could not have been discovered;
- (c) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (d) The judgment is void;
- (e) The judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (f) Any other reason that justifies relief.

**ORDER AND DEFAULT JUDGMENT**

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

1. The Court finds Defendant GUILTY of the following citation:
  - a. Citation 24-CT-033, Possession of Prohibited Drugs – 1<sup>st</sup> offense, O.C.L 309.9-8

|                                        |                 |
|----------------------------------------|-----------------|
| Fine:                                  | \$250.00        |
| Court costs:                           | \$ 25.00        |
| <b>Total Amount Owed by Defendant:</b> | <b>\$275.00</b> |

2. Defendant shall pay **\$275.00** to the Oneida Judiciary, **on or before January 25, 2025**. 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 November 26, 2024.



Patricia Ninham Hoeft, Trial Court Judge