

10-72 MADISON COUNTY, NY V. ONEIDA INDIAN NATION OF NY

DECISION BELOW: 605 F.3d 149

LOWER COURT CASE NUMBER: 05-6408, 06-5168, 06-5515

QUESTION PRESENTED:

In *City of Sherrill v. Oneida Indian Nation of New York*, 544 U.S. 197, 214 (2005) ("*Sherrill*") this Court held that standards of federal Indian law and federal equity practice precluded the Oneida Indian Nation of New York ("OIN"), the same tribe here, from unilaterally reviving its ancient sovereignty, in whole or in part, over recently-purchased property that had been owned and governed by non-Indians for 200 years. In so holding, this Court expressly rejected the tribe's claim that its sovereign immunity prevented the City of Sherrill in Oneida County, New York, from collecting unpaid property taxes through foreclosure and eviction. Despite *Sherrill*, in these two related cases involving attempts by Madison County and Oneida County to foreclose on OIN-owned fee parcels for nonpayment of lawfully imposed taxes, the lower court held that the remedy of foreclosure is barred by tribal sovereign immunity from suit - a decision which two court of appeals judges expressly (and the third, in effect) implored this Court to review.

The questions presented in this case are:

1. whether tribal sovereign immunity from suit, to the extent it should continue to be recognized, bars taxing authorities from foreclosing to collect lawfully imposed property taxes.
2. whether the ancient Oneida reservation in New York was disestablished or diminished.

JUSTICE SOTOMAYOR TOOK NO PART.

CERT. GRANTED 10/12/2010