

Cherokee Nation Code Annotated

Title 20: Courts

Appendix II. Court Rules for the District Court of Cherokee Nation

VIII. Contempt

Rule 70. Direct contempt

Cite as: 20 CNCA app. II, r. 70

Power of the Court. The Court has the power to punish any contempt in order to protect the rights of the parties and the interests of the public by assuring that the administration of justice shall not be thwarted. The Trial Judge has the power to cite and if necessary punish summarily anyone who, in open court, willfully obstructs the court or judicial proceedings after an opportunity to be heard has been afforded.

Admonition and warning. No sanction other than censure should be imposed by the Trial Judge unless (i) it is clear from the identity of the offender and the character of the acts that disruptive conduct was willfully contemptuous, or (ii) the conduct warranting the sanction was preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition.

Notice of intent to use contempt power; postponement of adjudication. The Trial Judge should as soon as practicable after the Judge is satisfied that courtroom misconduct requires contempt proceedings, inform the alleged offender of the intention to institute such.

The Trial Judge should consider the advisability of deferring adjudication of contempt or courtroom misconduct of a defendant, an attorney or a witness until after the trial, and should defer such a proceeding unless prompt punishment is imperative.

Notice of charges and opportunity to be heard. Before imposing any punishment for contempt, the Judge should give the offender notice of the charges and at least a summary opportunity to adduce evidence or argument relevant to guilt or punishment.

Referral to another Judge. The Judge before whom courtroom misconduct occurs may impose appropriate sanctions, including punishment for contempt, but should refer the matter to another Judge, if his conduct was so integrated with the contempt that the Judge contributed to it or was otherwise involved, or objectivity can reasonably be questioned.

Historical Data

SC-AD-13-02, adopted September 3, 2013.