

**DECISION OF
THE ȤAWIIȤ COUNCIL**

Application # HCR 23-002

**Determination re Risk to Public Safety – Cory Jonathan William Howard
2023 HCD 01**

Place and date of hearing: Port Alberni, BC
March 20, 2023

Date of judgment: March 23, 2023

Panel:

Yaalthuu-a (Jeff Cook), head of YaaluwaštakamatȤ house
hii-ni-naa-sim(Tommy Happynook), head of ČačaahsiȤas house
Phyllis Williams, representing λamahuus house

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I. BACKGROUND

1. On September 7, 2022, Cory Jonathan William Howard (“Cory”) was found guilty of the offence of assault contrary to the *Criminal Code*, s. 266.
2. As a result, the Executive Director issued an exclusion order against Cory as required under section 6(1) of the *Community Safety Act*, HFNA 4/2021 (the “Act”) prohibiting him from being on Huu-ay-aht treaty lands.
3. Cory made an application under section 10(1) of the Act for a determination that he does not pose an unreasonable risk to public safety and as a result the exclusion order should be varied or rescinded. The H̱aw̱iiẖ Council arranged to hold a hearing to consider the matter. Public notice of the application was given on February 1, 2023.
4. On February 1, 2023, the H̱aw̱iiẖ Council issued an interim order suspending the effect of the exclusion order until the sooner of February 10, 2023 or further order of the Council. This interim order was extended on February 10, 2023, until the sooner of the determination of the application or until further order of the H̱aw̱iiẖ Council.
5. Public notice of the hearing was given on March 1, 2023. The public notice advised how people designated as “impacted individuals” under the *Act*, and others, could seek to participate in the hearing. The Registrar also contacted the family of the victim of the offence to notify them of the hearing and ensure they knew how they could participate. The victim and their family did not participate in the hearing.
6. The hearing was held in person in Port Alberni on March 20, 2023. Participants had the option of speaking at the hearing or of providing written submissions. There was also an option to attend by Zoom.
7. A panel of three members of the H̱aw̱iiẖ Council (the “panel”) made up of Yaalthuu-a (Jeff Cook), head of Yaaluuwaštakamaltẖ house; hii-ni-naa-sim (Tommy Happynook), head of Čačaaḥsiḥas house, and Phyllis Williams,

representing ʻAmahuus house (with Phyllis Williams and hii-ni-naa-sim attending remotely) heard the matter on behalf of the ʻHāwiih.

A. Participants

8. The following individuals participated at the hearing:

- Cory
- Cory Howard Sr.
- Marie Nookemus
- Tammy Howard

9. Additionally, the ʻHāwiih Council received letters of support from the following individuals:

- Cory Howard Sr.
- Tammy Howard
- Kimberly Nookemus
- Kristen Young
- Vince Howard
- Brandon Manson
- Helena Howard

II. WHAT THE ʻHĀWIIH COUNCIL HEARD

A. Testimony of participants

Cory

10. Cory acknowledged that he committed the offence of assault and was placed under probation conditions and required to pay a \$100 fine. He stated that he has complied with these conditions and that he paid his victim surcharge fine. He told the panel that he has not been convicted of any other offences.
11. Cory spoke about the progress he feels he has made as a result of counselling, which he currently attends every two weeks. Cory told the panel that he originally

did not think counselling was for him, but that he now likes talking to his counsellor and is learning a lot. He wants to continue attending counselling sessions.

12. Cory advised that he has been staying away from drugs and alcohol. He attended treatment in 2017 or 2018 but has not attended since then and he noted that he feels treatment should be something a person wants to do, not something that is forced on them. However, he said he believes that counselling has been working for him.
13. Cory has a part-time job at Paawats. He told the panel that he hopes to find full-time work and would like to work for the Nation.
14. Cory spoke about how he has been reconnecting to HUU-ay-aht culture. In particular, he noted that he has been dancing and relearning songs and where they come from. He has also been going to the river for cleansing and has been learning family stories from his father.
15. Cory described how he went through a period of depression after experiencing some loss and trauma but that he has been enjoying cultural activities again and showing songs and dances to younger people. He stated that he feels stronger now and capable of reaching out if he starts to experience difficult feelings and depression again.

Cory Howard Sr. (“Cory Sr.”)

16. Cory Sr. both spoke at the hearing and provided a letter in support of Cory’s application. In his view, Cory is not a danger to the community. He noted that he has seen Cory grow since attending counselling sessions, describing his son’s participation in cultural activities, including teaching dances for potlatches. He described Cory as a good uncle, as someone active in sports, and as someone with goals for the future, such as becoming a mechanic.
17. Cory Sr. stated that Cory has gone through a lot in his life, but that he is on a healing journey. He expressed his own commitment to guide and support Cory

through this process. He noted that Cory has a lot of family who are willing to help and support him. Cory Sr. asked the Ḥawiiḥ Council not to punish Cory for a mistake that he is learning from.

Marie Nookemus (“Marie”)

18. Cory’s maternal grandmother Marie Nookemus spoke in support of his application. Marie stated that she and Cory’s grandfather support him and believe he can change. She noted that he is very good with children and at his job with Paawats. She asked the Ḥawiiḥ Council to understand what he has gone through and give him another chance.

Tammy Howard (“Tammy”)

19. Cory’s mother Tammy spoke in support of Cory’s application. She described how Cory helps her at home, assists his grandparents with chores, and supports his younger siblings and nephews.
20. Tammy described the support Cory has from his family, noting that she believes that culture is healing, and that she encourages Cory to attend events such as drum-making workshops. She described the family as being blessed to have access to cultural knowledge and the ability to learn about family history from both her parents and Cory Sr.’s parents.
21. Tammy expressed the view that taking Cory away from his home and family is not the answer, and that being in the community is in fact helping Cory to grow.

Letters of Support

22. As noted above, the panel also received letters from others in support of Cory’s application.

Kimberly Nookemus

23. Kimberly Nookemus is Cory’s aunt. She wrote that Cory has experienced traumatic events with little support over the past few years. Kimberly noted that Cory’s support system is in Anacla and that in her view he would benefit from

attending programs and activities in the community. Kimberly suggested that in the old days, a person who did wrong might host a dinner to apologize and be held accountable. Kimberly expressed that she would like to be a part of Cory's healing journey.

Kristen Young

24. Kristen Young wrote that she has seen Cory show growth at home in the community. In Kristen's view, being close to friends and family is an important part of mental, emotional, and spiritual health she believed that requiring Cory to leave treaty lands would be damaging to him and to his family. She described Cory as participating in sporting, cultural, and other community events and engaging with services offered in the community.

Vince Howard

25. Vince Howard is Cory's brother. He wrote that he supports Cory being able to stay at home in Anacla. He described Cory as his best friend and a good uncle.

Brandon Manson

26. Brandon Manson is Cory's brother. He provided a letter of support describing Cory as a patient, helpful brother and uncle who is a good role model. He noted that Cory participates in cultural events and hockey.

Helena Howard

27. Helena Howard is Cory's sister. In her letter, she described Cory as a supportive brother who helps her in a number of ways, including by helping with childcare for her children so that she can finish school, helping her to get her driver's license, and teaching her to dance. She stated that she goes with Cory to visit their grandparents and sees him help them by bringing in wood and cleaning up. She also noted Cory's positive relationship with her son Daniel and described how he looks up to Cory.

B. Questions from the ʻHāwiih

28. The panel asked Cory whether he could commit to certain actions, including:

- Hosting a community dinner;
- Participating in a 2-day ?uusimč; and
- Visiting Kiixin with Wišqii.

29. Cory advised the panel that he could uphold these cultural commitments.

III. WHAT THE HAWIIH MUST CONSIDER

30. Section 11 of the *Act* sets out the factors that the Hāwiih must take into account in determining whether an excluded person poses an unreasonable risk to public safety, and deciding whether to uphold, rescind, or vary an exclusion order as follows:

- a) the time that has elapsed since the actions giving rise to the conviction and the excluded person's behaviour during that time;
- b) the role of substance use in the offence and the excluded person's current status with respect to substance use, including participation in any treatment program;
- c) the excluded person's ties to the Huu-ay-aht community;
- d) the potential impacts of the exclusion order on the excluded person, impacted individuals, and the Huu-ay-aht community;
- e) the nexus between the offence and the potential risk posed by the person to people on Treaty Lands and to the Huu-ay-aht community;
- f) any proposed mitigation plan;
- g) participation of the individual in a restorative program;
- h) any supports put in place by the excluded person's Huu-ay-aht Maht Mahs;
- i) whether the excluded person has a criminal history beyond the commission of the prescribed offence giving rise to the exclusion order;
- j) whether the excluded person has a history of non-compliance with court orders;
- k) any expressions of remorse or attempts to make restitution undertaken by the person; and

- l) any other factors it considers relevant.

IV. APPLICATION

31. In reaching its decision, the panel considered all of the evidence and comments received at the hearing and the factors set out in section 11. In particular, we note:

- Cory is a HUU-ay-aht citizen who grew up on treaty lands and has lived in Anacla for most of his life.
- Much of Cory's family also lives in Anacla. Cory has a positive relationship with his parents, siblings, and extended family, and they provide a strong and committed support system for him.
- Cory has expressed, and has begun to demonstrate, a commitment to reconnect with his culture and contribute positively to his community.
- Although the panel did not hear directly from the victim, the panel understands that they do not currently reside on treaty lands. However, the panel notes that in any event Cory is still bound by his probation conditions not to have any contact with them.
- The offence occurred in May 2022. Cory has indicated that he has always complied with his court-ordered conditions and has not been convicted of any other criminal offences.
- Cory indicated that he is sober and that he intends to continue attending counselling.
- Cory expressed his willingness to host a community dinner, to participate in a ʔuusimč, and to visit Kiiḡin as part of his healing journey.

V. DECISION

32. We are satisfied that Cory remaining on HUU-ay-aht treaty lands does not pose an unreasonable risk to public safety, as long as certain conditions are met. As a

result, the panel has decided to vary the exclusion order to allow Cory to remain on treaty lands subject to certain conditions.

VI. ORDER

The Hāwiih Council orders as follows:

1. The exclusion order dated January 9, 2023 in respect of Cory Jonathan William Howard is varied to allow Cory to remain on treaty lands, subject to the following conditions:
 - a) Cory will participate in a 2-day ʻuusimč with Cory Howard Sr. or another person of Cory's choice;
 - b) Cory will host a community dinner; and
 - c) Cory will visit Kiiḡin with Wišqiiby no later than July 31, 2023.
2. The Hāwiih Council will consider any failure by Cory to meet these conditions, which may result in a reinstatement of the exclusion order or the imposition of additional conditions.

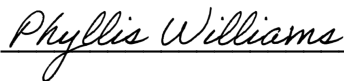
Decided this 23rd day of March, 2023



Yaalthuu-a (Jeff Cook)



hii-ni-naa-sim (Tommy Happynook)



Phyllis Williams