

**DECISION OF  
THE ȤAWĪIȤ COUNCIL**

Application # HCR 1

**Determination re Risk to Public Safety – Joseph Francis Emile Jules  
2024 HCD 1**

Place and date of hearing: Port Alberni, BC  
April 5, 2024

Date of judgment: April 9, 2024

Panel:

Ȥlut' as-aksup (Theresa Nookemus), head of Ȥaw'eȤtak'amłath house

Ȥupinyook (Tommy Happynook), head of Čačaahsi?as house

Yaalthuu-a (Jeff Cook), representing Yaaluuwaštak'amłath house

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## **I. BACKGROUND**

1. On September 8, 2023, Joseph Francis Emile Jules (“Joseph”) 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 Joseph 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. Joseph 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that he does not pose an unreasonable risk to public safety and as a result the exclusion order should be varied or rescinded.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 and hearing was given on March 21, 2024.
4. 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 victim of the offence to notify them of the hearing and ensure they knew how they could participate.
5. The hearing was held in person in Port Alberni on April 5, 2024. Participants had the option of speaking at the hearing or of providing written submissions. There was also an option to attend by Zoom.
6. A panel of three members of the H̱aw̱iiẖ Council (the “panel”), made up of Theresa Nookemus, head of H̱aw̱'ehtak'amłatẖ house, ẖupinyook (Tommy Happynook), head of Čačaaẖsiŋas house, and Yaalthuu-a (Jeff Cook), representing Yaaḻuuwaštak'amłatẖ house (with ẖupinyook attending remotely) heard the matter on behalf of the H̱aw̱iiẖ.

### **A. Participants**

7. The following individuals participated at the hearing:
  - Joseph
  - Tiana Peters
  - Shawn Mack

8. Additionally, the Hāwiih Council received letters of support from the following individuals:

- Tiana Peters
- Justine Mack

## II. WHAT THE HĀWIIH COUNCIL HEARD

### *Joseph*

1. Joseph is Mowachaht and Checklesaht and has family residing in Kyuquot. He is in a relationship with a Huu-ay-aht citizen and they have a young child. In addition, Joseph is a father to six other children.
2. Joseph told the panel that about the circumstances of the assault, which occurred in September 2022 and involved alcohol. He was arrested and released on bail the next day. Joseph told the panel that this was a wake-up call for him and he realized he had made mistakes.
3. After being released, Joseph voluntarily went to see a counsellor and sought treatment for alcohol use. He was eventually able to find a space at Comox Valley Treatment Centre and completed 60 days there.
4. In September 2023, he pled guilty and was sentenced to six months in jail, serving four months. Joseph told the panel that while he was serving his sentence, he had a lot of time to think about things.
5. Joseph stated that he regrets what happened, and he feels confident he will not make the same mistakes. He does not want to hurt his loved ones, he does not like to scare people and he does not want to be seen as a threat.
6. Joseph told the panel that being separated from his young son on and off over the past year and a half has been very difficult and has negatively impacted his son, and he does not want to be separated from him again.
7. Although he is not a Huu-ay-aht citizen, Joseph stated that he values the Huu-ay-aht culture and community. He told that panel that his young son appreciates

drumming and singing as well. He is not currently planning to reside in Anacela, but he would like to be able to take his son there so he can visit with his grandparents and participate in cultural events.

8. Joseph told the panel that he is currently employed full-time at the fish plant in Ucluelet. His job is important to him and he wants to keep it. He works long hours, and on the weekends he spends time with his children. In addition to his young son, he is involved in the lives of his older children as well. He has a strong relationship with the guardian of his teenage children, whom he considers a good friend.

### ***Tiana Peters***

9. Tiana is Joseph's partner and was the victim of the offence. She voiced support for Joseph. She told the panel that she and Joseph resumed their relationship before he was sentenced and have worked on their relationship since then. She stated that she does not believe that anything like the assault will happen again.
10. Tiana also provided a letter of support for Joseph, in which she expressed that she has seen Joseph grow a lot and become a healthier version of himself. She emphasized that he is a great father both to their son and to his other children.
11. In both her letter and her statements to the panel, Tiana stressed how hard it has been to be a single parent to her and Joseph's young son. She moved to Port Alberni after the exclusion order was issued. She wants to be a family and does not want to be a single parent anymore.

### ***Shawn Mack***

12. Shawn Mack is Joseph's father-in-law. He attended the hearing remotely and voiced strong support for Joseph on behalf of himself and his wife. He said that Joseph being excluded from the community was very hurtful and hard for those that really know him.

## ***Justine Mack***

13. Justine Mack is Joseph's sister-in law. She did not attend the hearing but provided a letter of support for Joseph. In her view, Joseph has learned from his mistakes and is a kind and considerate person who has taken accountability for his actions. Justine also emphasized that the exclusion order has been stressful for her sister Tiana and her young nephew, who is close with his father.

### **III. WHAT THE HAWIIH MUST CONSIDER**

14. 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**

15. 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:

- a) The offence occurred approximately 18 months ago, although Joseph was not sentenced until September 2023. Since the offence occurred, Joseph has sought counselling, completed treatment, and maintained employment. He is clearly hard-working.
- b) Joseph does not intend to live on treaty lands. He has a good job and stays involved with his other children in Port Alberni. However, he wishes to visit with his son.
- c) Alcohol was a significant factor in the offence. Joseph has since completed treatment. Although he acknowledged that he does not abstain completely, he says that he no longer drinks excessively.
- d) The panel considers it important that Joseph recognized a need for treatment, sought out a program himself, and completed 60 days, even though he faced a long wait for a treatment spot. This demonstrates insight and commitment.
- e) Although Joseph is not a Huu-ay-aht citizen, he has a Huu-ay-aht child and partner and the support of members of the Huu-ay-aht community. The panel recognizes the importance of keeping Huu-ay-aht children and families together. The panel also acknowledges and applauds Joseph's commitment to ensuring that his son grows up connected to his Huu-ay-aht grandparents, homelands, and culture.
- f) Joseph took responsibility for his actions by pleading guilty and expressed remorse.

## V. DECISION

16. Given the significant work that Joseph has done in the time that has passed since the offence, we are satisfied that Joseph being or 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 Joseph to remain on treaty lands subject to certain conditions.

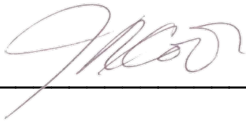
## VI. ORDER

The H̄awiih Council orders as follows:

1. The exclusion order is varied to allow Joseph Jules to enter or remain on treaty lands, subject to the following conditions:
  - a) Joseph will uphold the sacred principles of ʔiisaak (greater respect), ʔuuʔaluk (taking care of), and Hišuk ma ćawak (everything is connected);
  - b) Joseph will not be under the influence of alcohol or drugs on treaty lands;
  - c) If Joseph wishes to visit treaty lands for a period of more than 24 hours, he will
    - i. notify the Executive Director at least two days in advance by email at [executivedirector@huuayaht.org](mailto:executivedirector@huuayaht.org) or by text message at 250-735-3097; and
    - ii. receive an acknowledgment of his message before entering treaty lands;
  - d) If Joseph wishes to move to treaty lands permanently, he will appear before the H̄a'wiih Council, and the H̄a'wiih Council may vary the conditions set out in this order, impose new conditions, or make any other order it considers just and appropriate;
  - e) Joseph will provide updates to H̄a'wiih Council on his compliance with these conditions as requested;
  - f) Joseph will appear before H̄a'wiih Council as requested.

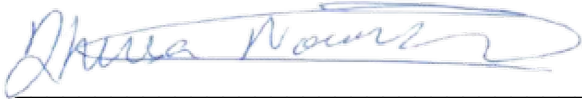
2. ʔaʔwiih Council will consider any failure by Joseph to meet these conditions, which may result in a reinstatement of the exclusion order or the imposition of additional conditions.
3. No earlier than three months after the date that this order takes effect, Joseph may apply to the ʔaʔwiih Council to remove or change any of these conditions and ʔaʔwiih Council may choose to remove or change the conditions.

Decided this 9<sup>th</sup> day of April, 2024



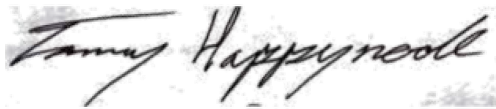
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Yaalthuu-a (Jeff Cook)



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Thlut' as-aksup (Theresa Nookemus)



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ʔupinyook (Tommy Happynook)