

**Determination re Risk to Public Safety – Kenneth (Paulo) Johnson
2025 HCD 25-001**

Place and date of hearing: Port Alberni, BC
March 24, 2025

Date of judgment: March 24, 2025

Panel:

Yaalthuuaa-uks (Sherri Cook), head of Yaaluwaštakamalth house,
Ȥapinyook (Tommy Happynook), head of ČačaahsiȤas house
Thlut’as aksup (Theresa Nookemus), representing Ȥaw’ehtak’amalth house

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I. BACKGROUND

1. On June 25, 2019, Kenneth Paul Johnson (“Paulo”) was convicted of three offences under the *Criminal Code of Canada*: aggravated assault (section 268(2)), assault (s. 266), and assault causing bodily harm (s. 267(b)). As a result, the Executive Director issued an exclusion order prohibiting Paulo from being on Huu-ay-aht treaty lands as required under section 6(1) of the *Community Safety Act*, HFNA 4/2021 (the “Act”).
2. Paulo 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for a determination that he does not pose an unreasonable risk to public safety and seeking that the exclusion order be rescinded or varied. The H̱aw̱iiẖ Council held a hearing to consider the matter on March 1, 2022.
3. The H̱aw̱iiẖ Council decided to vary the exclusion order to allow Paulo to return to treaty lands subject to conditions requiring Paulo to:
 - a. Reside alone at his home in Grappler;
 - b. Only attend the Huu-ay-aht government offices if he has booked an appointment in advance;
 - c. Continue to participate in recovery programs;
 - d. Provide an apology letter to the Anacla community newsletter that included: an apology for past behaviour; a commitment to live within the laws of Huu-ay-aht, the province and federal governments, and the requirements of the Harvester’s Card; a commitment to live a more traditional life in Grappler; and a commitment to live alone in order to reset his life following a toxic relationship;
 - e. Participate in an ʔuusimč with Wišqii; and
 - f. Host a community dinner.

4. Paulo's exclusion order was set to expire on June 25, 2024. Under the Act, the Hāwiih must review exclusion orders in the year before they expire to determine whether they should be extended and, if so, on what conditions. A review hearing was originally scheduled for June 2024, but was adjourned as Paulo advised that he was unable to attend.
5. As a result, the Hāwiih Council issued an interim order on June 24, 2024, keeping the varied exclusion order in place until such time as a review hearing could be held.
6. The review was eventually rescheduled. Public notice of the hearing was given on February 27, 2025. The review hearing was held in person in Port Alberni on March 24, 2025. There was also an option to attend by Zoom.
7. A panel of three members of the Hāwiih Council, made up of Yaalthuuaa-uks (Sherri Cook), head of Yaaluwaštakamalth house; hapinyuuk (Tommy Happynook), head of Čačaahsi?as house; and Thlut'as aksup (Theresa Nookemus), head of Haw'ehtak'amalth house (the "panel") heard the matter on behalf of the Hāwiih.
8. The panel heard directly from the following individuals:
 - Paulo Johnson
 - Larry Johnson
 - Jack Cook
 - Deb Cook
 - Coraleah Bauer
9. Additionally, the panel received and reviewed written materials provided by the Huu-ay-aht administration as well as by Martha Johnson and Brad Johnson.

II. WHAT THE HAWIIH COUNCIL HEARD

Paulo Johnson

10. Paulo told the panel about how he has been doing since his hearing in February 2022. He stated that he has been doing much better since he has been living in Grappler Creek. Paulo previously lived on the street in Port Alberni, and he described that as being very difficult for him. He told the panel that he still does not like to go to town because it reminds him of that time, and that he feels a lot stronger at home than in the city.
11. Paulo explained that when he is in Grappler, he can access the resources of the territory. He goes crabbing and prawning. He stated that he was willing to do anything to be able to stay at home.
12. The panel asked Paulo about whether he had fulfilled the conditions that the previous panel had imposed on him in 2022. Paulo confirmed that he had written the letter of apology and had hosted a community dinner. He acknowledged that he had not completed the ʔuusimč. The Hāwiih Council's March 2022 decision stated that tliishin had made arrangements for Paulo to participate in a four-day ʔuusimč, but Paulo told the panel that despite making attempts to contact tliishin and Wišqii he had been unable to arrange this.
13. Paulo was also honest that his compliance with the conditions imposed on him by the Hāwiih has not been perfect. Although he was supposed to live alone in Grappler Creek, he admitted that Tracy Todd had on occasion visited him there. He told the panel that he was facing a breach of probation charge related to contact with Tracy as well and has a court appearance coming up. He is subject to conditions as a result of this charge, and he stated that he checks in with his probation officer Dave Paruk by phone and in-person on an alternating weekly basis.

14. Paulo has attended treatment in the past and has taken Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) programming several times. He is currently participating in counselling which he attends both by phone and in person.
15. The panel asked Paulo about a conviction for assault that he received in August 2023 (and because of which he is subject to a second exclusion order, as discussed further below). Paulo told the panel that he pled guilty and spent time in jail as a result. While he was in jail, he participated in AA and NA programming. He was also subject to a 12-month probation order, but that has now expired.
16. When asked about his current substance use, Paulo readily admitted that he is not completely sober. He advised the panel that he is working on it, and feeling stronger, but he is not perfect.
17. Paulo also told the panel about helping his family with fishing. He helped his niece, Martha Johnson, learn how to run her boat, and has been teaching her and her children how to set net, where to fish, and how to fix nets. He also helped his brother Larry Johnson harvest herring roe.
18. Paulo spoke with obvious happiness at being able to spend time with his grandchildren and Martha's children, and to be able to play with them and teach them about things like fishing and crabbing.

Larry Johnson

19. Larry spoke about his brother's struggles with addiction and about his own recovery. He spoke about their shared loss of another brother and their grief and challenges dealing with it. Larry recognized that Paulo is not drug and alcohol free but said that he is working on it. He has seen a lot of positive change, and observed that Paulo is much stronger and better able to deal with his addictions when he is living on Huu-ay-aht land and getting out on the water. As Larry put it, "his instincts just take over on the water".

20. Larry described Paulo's ability to live off the land and survive with very little in Grappler Creek. Larry helps Paulo with groceries like rice and potatoes but Paulo catches his own fish, crabs, and prawns. In his view, Paulo really needs to be outside and keeping busy in order to do well.
21. Larry said that he had conflicting and complicated feelings about the *Community Safety Act*. He felt that Huu-ay-aht is sharing the message that the Nation wants people to come home, but this is being contradicted when community members are sent away under the Act. At the same time, however, Larry recognized that it is important for people to come home healthy.
22. Larry also told the panel that Paulo had helped him with the herring roe fishery and supported Martha with her food fish contract as well as with in-stream salmon enhancement work. He stated that Paulo has a lot of valuable knowledge about fish and fishing.
23. Larry asked the panel to cancel the exclusion order. He also raised concerns about the state of Paulo's home in Grappler. He expressed concerns about the porch as well as the bathroom. He also noted that there is no potable water. Larry is concerned about Paulo's living conditions especially since he is an elder and has recently been ill.

Martha Johnson

24. Martha Johnson provided a letter of support for Paulo. She described a very difficult year after the loss of her partner and her children's father. She and her children moved back to Anacla, where they did not have as strong of a support system as in Port Alberni. Martha described how Paulo helped her get ready for sockeye season. She wrote that she would not have been able to do any fishing without his support. They also participated in the Excess Salmon to Spawning Requirements (ESSR) chinook fishery in Sarita together.

25. Martha also described spending time in Grappler with Paulo, where he taught her children about fishing and crabbing. She observed Paulo visiting with family from Victoria and spending time on the water with Larry, which she felt was good for both of them. Paulo has also been helping Martha by gathering firewood and driftwood for her.
26. Martha also wrote that keeping busy and being out on the land and water is good for Paulo.
27. Martha recognized that when Paulo helped her around her house in Anacla and when he helped her with the ESSR fishery, he was breaching the exclusion order, because he would meet up with her in Anacla to drive to Sarita. Martha felt that the exclusion order created barriers to Paulo keeping in touch with his family, as well as to participate in community events such as dinners and workshops. She also felt that the exclusion order condition that Paulo not be in Anacla affected his ability to earn a living.

Brad Johnson

28. Brad Johnson is Paulo's son. He did not attend the hearing but provided a letter to the panel. Brad told the panel that living in Grappler Creek was the best place for his father to be as it is healing mentally and spiritually. He advised that his father has taken various courses since March 2022 that have helped him on his path to recovery, and that he is repairing his relationships with his children. Brad stated that he does not feel Paulo poses a risk by being on treaty lands.

Deb and Jack Cook

29. Deb and Jack Cook both provided words of encouragement and support to Paulo. Jack encouraged Paulo to work hard at addressing his addictions and to always keep in mind how he would like his grandchildren to see him and remember him.

Coraleah Bauer

30. Coraleah Bauer is Paulo's daughter. She told the panel that in the past five years she has seen a lot of growth from her father. In particular, she has observed him reaching out and connecting more with his family. He was with her when her daughter was born.

Administration

31. The panel also received various materials from the Huu-ay-aht administration. They include:
- a. Correspondence regarding issues with and repairs being carried out at Paulo's home in Grappler;
 - b. Correspondence noting a report by a citizen that Paulo and Tracey Todd were seen together in Grappler in June 2024, as well as confirmation from RCMP that Paulo was at that time under conditions not to have contact with Tracy;
 - c. A report by staff regarding an interaction that staff at the Sugsaw Creek Hatchery had with Paulo and another individual described as his partner on January 17, 2025. The staff described Paulo and the other individual as intoxicated and short with them and the interaction as being very uncomfortable.
 - d. A copy of the Sugsaw Creek Hatchery Safety Plan, prepared in November 2020, as a result of negative interactions that hatchery staff had with Paulo in the past, which states that any interaction with Paulo should be documented and reported to a supervisor.
 - e. A Report on Grappler Dock, dated October 23, 2024, by the Natural Resource Team. The Report states that a Huu-ay-aht citizen and other non-citizens in Grappler are creating environmental hazards and pollution on the Huu-ay-aht-owned dock, which causes issues for staff who use the dock to access the

hatchery. The Report also notes that there are abandoned gillnets in the water and a derelict vessel, identified as belonging to Myles, which is taking on water at the dock. The Report contains several photos.

- f. An image of the Port Alberni provincial court list on October 15, 2024, indicating an appearance for Paulo on a breach of probation.

III. WHAT THE HAWIIH MUST CONSIDER

32. Section 11 of the Act sets out the factors that the Hāwīih must take into account in determining whether an excluded person poses an unreasonable risk to public safety, and deciding whether to extend an exclusion order:

- 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

33. The panel listened carefully to all the evidence and comments received at the hearing, and to those provided in writing. In making a decision, the panel considered the factors set out in section 11 of the Act. In particular, the panel's considerations included the matters discussed below.
34. The offences that gave rise to the exclusion order occurred nearly 6 years ago, in June 2019. Since that time, the panel recognizes that Paulo's behaviour has not been perfect. As noted above, Paulo was convicted of assault in August 2023 and has an outstanding breach of probation charge.
35. Paulo is subject to another exclusion order as a result of the assault, and has made an application to the Hāwiih Council to have that order rescinded or varied. Paulo's application has not yet been heard and will be dealt with separately. However, the panel notes that until that time, Paulo is subject to an interim order which permits him to be on treaty lands subject to the conditions that he:
- a. uphold the sacred principles of ʻiisaak (greater respect), ʻuuʻaʻuk (taking care of), and Hišuk ma ʻāwak (everything is connected);
 - b. Abstain from drugs and alcohol on treaty lands;
 - c. Have no contact with Tracey Todd or Jacqueline Dennis; and
 - d. Continue participating in counselling.
36. Paulo acknowledged pleading guilty in 2023 to assault and to breaching both his court conditions and the terms of his exclusion order by having contact with Tracey Todd at various times. However, he also noted that most recently, Tracey was in Grappler with him because he needed assistance getting around after being hospitalized for meningitis. While the panel does consider this to be a somewhat mitigating circumstance in light of the seriousness of Paulo's illness, we also urge Paulo to reach out to other members of his support system if he needs help in the future.

37. While Paulo did not complete a ʔuusimč, the panel understands that he made attempts to do so and was not provided with the support he required by those who had offered to assist him. That is not Paulo's failing and the panel does not hold it against him.
38. Paulo was honest about his struggles with addiction. He has completed treatment and 12-step programming, including when incarcerated in 2023. Both Paulo and the individuals who spoke in support of him recognized that while Paulo is not completely sober, he is improving and is working hard on his recovery. He participates in counselling.
39. Paulo is a Huu-ay-aht citizen with strong ties to the Huu-ay-aht community. He has lived in Grappler Creek for many years and has family members living in Anacla. One of the things the panel heard from multiple participants was that in the past few years Paulo has been reconnecting with his family and repairing his relationships with family members.
40. He has also been helping his family with fishing and teaching younger family members about harvesting traditional foods. Paulo's relatives told the panel that Paulo has been a major source of support for them and they would like him to be able to be more connected to the community, not less.
41. The panel recognizes that Paulo has valuable traditional knowledge and skills and that it is a benefit to the whole community if he can pass those skills on to the younger generation.
42. The panel heard repeatedly both from Paulo and others that Paulo does best when he is keeping busy and when he can be out on the water. He is a healthier and safer person when he has access to Huu-ay-aht territory and resources; as his brother Larry said, "The land is the medicine he needs." The panel agrees with this statement.

43. The panel is satisfied that with the conditions of the interim order in place, Paulo does not pose an unreasonable risk to public safety. We do not consider that in this instance a multiplicity of overlapping exclusion orders would provide any additional benefit to community safety. It will fall to the panel hearing Paulo's application in respect of the August 2023 assault and subsequent exclusion order to determine whether that order should be rescinded or varied and if so, on what conditions.
44. Finally, the panel wishes to thank the community members who participated in this review hearing. We acknowledge all comments, including those about the exclusion order and hearing processes themselves, and we are grateful for the thoughtful and respectful way in which participants conducted themselves.

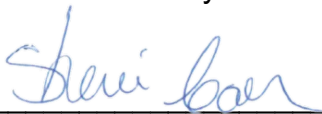
V. DECISION

45. The panel has determined that the 2021 exclusion order should be allowed to expire.

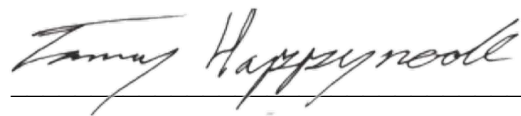
VI. ORDER

The Hāwīih Council orders that the 2021 exclusion order is expired.

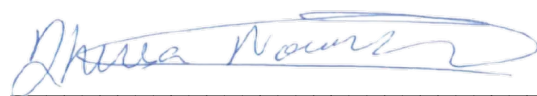
Decided this 24th day of March, 2025.



Yaalthuuaa-uks (Sherri Cook)



hupinyook (Tommy Happynook)



Thlut'as aksup (Theresa Nookemus)