DECISION OF THE ḤAẆIIḤ COUNCIL

Application # HCR 25-003

Determination re Risk to Public Safety – Kenneth (Paulo) Johnson

2025 HCD 3

Place and date of hearing:	Port Alberni, BC May 1, 2025
Date of judgment:	May 1, 2025

Panel:

Yaalthuuaa-uks (Sherri Cook), head of Yaałuuwaštakʼamałtḥ house

ḥapinyook (Tommy Happynook), head of Čačaaḥsiʔas house

Thlutʼas aksup (Theresa Nookemus), representing Ḥawʼeḥtakʼamłatḥ house

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I. BACKGROUND

1. On August 30, 2023, Kenneth Paul Johnson (“Paulo”) was convicted of assault under section 266 of the *Criminal Code of Canada*. 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Act seeking a determination that he does not pose an unreasonable risk to public safety and that the exclusion order be rescinded or varied. The Ḥaẃiiḥ Council held a hearing to consider the matter on May 1, 2025.

3. Public notice of the application was given on April 3, 2025 and an interim order was issued permitting Paulo to be on treaty lands subject to the conditions that he:
   a. uphold the sacred principles of ʔiisaak (greater respect), ʔuuʔałuk (taking care of), and Hišuk ma c̓awak (everything is connected);
   b. abstain from drugs and alcohol on treaty lands;
   c. have no contact with Tracey Todd or Jacqualine Dennis; and
   d. continue participating in counselling.

4. Public notice of hearing was given on April 17, 2025. The public notice advised how people could seek to participate in the hearing. In addition, the Deputy Law Clerk reached out to the victim, Jacqualine Dennis (“Jacquie”) to advise her of the hearing and ask if she would like to attend or provide a written submission. Jacquie chose not to do so, but did provide some comments in advance of the hearing that were shared with the panel.

5. The hearing was held on May 1, 2025. Participants had the option of speaking at the hearing or of providing written submissions. Although there was an option to attend in person at the Huu-ay-aht government office in Port Alberni, all participants appeared remotely via Zoom.

6. A panel of three members of the Ḥaẇiiḥ Council (the "panel"), made up of Yaalthuuaa-uks (Sherri Cook), head of Yaaɬuuwaštakʔamaɬtḥ house, ḥapinyuuk (Tommy Happynook), head of Čačaaḥsiʔas house, and Thlut' as aksup (Theresa Nookemus), head of Ḥaw'eḥtak'amɬatḥ house, heard the matter on behalf of the Ḥaẇiiḥ.

7. The panel heard directly from Paulo, who was supported by his brother, Larry. The panel also received materials from the Huu-ay-aht administration and information from Jacquie.

II. WHAT THE ḤAẆIIḤ COUNCIL HEARD

8. The panel heard from Paulo relatively recently, at his review hearing in relation to a previous exclusion order. At that hearing, the panel decided to allow Paulo's previous exclusion order to expire. The panel issued an interim order that allowed Paulo to stay on treaty lands, while imposing some conditions on him until such time as this application could be determined. The panel's reasons and order in relation to the review hearing are published as 2025 HCD 25-001 and are available online here: https://huuayaht.org/wp-content/uploads/2025/05/2025-03-24-Reasons-of-Hawiih-Council-re-K.-Johnson-Review-Hearing-.pdf

9. The panel asked Paulo to advise if there was any new or additional information that he wanted the panel to be aware of, rather than to repeat everything he shared at his review hearing.

10. Paulo told the panel that the offence for which the exclusion order was issued took place in Bamfield at the motel and involved alcohol. There was an altercation, and Paulo was ordered to leave the motel. No one was hurt. Paulo ultimately pled guilty and spent 90 days in jail in relation to the offence, followed by a 12-month probation order. One of the terms of the probation order was that he have no contact with Jacquie or with Tracey Todd ("Tracey").

11. As noted above, Jacquie did not attend the hearing. However, she provided some comments in advance, including that Paulo had provided an apology. Paulo confirmed that he had talked with Jacquie at the dock after his probation order expired and that he had apologized to her. Paulo said that it felt good not have to turn around and walk away when he saw her.

12. Paulo stated that since the offence, he has completed a six-week Respectful Relationships course. He has also been participating in the “Right Living” course, which is a daily and ongoing course that relates to setting goals.

13. Paulo stated that not much has changed for him since he last appeared before the panel. He continues to enjoy living in Grappler and being at home. He frequently goes prawning, crabbing, and fishing with his niece Martha.

14. Paulo confirmed that he still checks in with a probation officer twice per week, in relation to an outstanding breach of probation charge for which he has not yet been sentenced. Paulo advised that the breach was in relation to having contact with Tracey Todd. He advised that he saw Tracey after being released from the hospital earlier this year. He stated that he has not had any other breach charges since the date of the offence giving rise to this exclusion order.

15. The panel received a report by the Huu-ay-aht Natural Resource Team on the Grappler Dock, dated October 23, 2024. The report stated 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 noted that there are abandoned gillnets in the water and a derelict vessel, identified as belonging to an individual not involved in these proceedings, which is taking on water at the dock. The report contains several photos.

16. The panel asked Paulo about this report. He advised that he has made some efforts to clean up the dock and put all the garbage in the middle, and that he understood that Natural Resources staff would be coming to haul it away.

However, he acknowledged that the dock remains a bit of a mess due to the fact he has some fishing nets there that he is in the process of fixing. He also confirmed that he has since hauled the sinking vessel out of the water and moved it up the beach.

17. The panel also received from the Huu-ay-aht administration a report regarding an interaction that staff at the Sugsaw Creek Hatchery had with Paulo and another individual described as his partner on January 16, 2025. The staff described Paulo and the other individual as intoxicated and short with them and the interaction as being very uncomfortable.

18. The panel asked Paulo about this interaction and about his interactions with Huu-ay-aht government staff generally. Paulo did not recall the specific interaction. However, he admitted to seeing Tracey at some point in January. He stated that he does not interact with staff too often but he does sometimes ask them about what is going on at the hatchery. He feels that their interactions have generally been positive.

19. Paulo was asked if he has interest in participating in other Huu-ay-aht programs, workshops or other supports. He advised that he finds himself missing out on what is going on, as he is quite isolated living in Grappler. There is no phone service, Paulo does not have email, and he does not have a vehicle. However, he stated that he would like to be more connected to Anacla.

WHAT THE ḤAẆIIḤ MUST CONSIDER

20. Section 11 of the Act sets out the factors that the Ḥaẇiiḥ 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.

III. APPLICATION

21. The panel listened carefully to all the evidence and comments received at the hearing. The panel also considered what we heard from Paulo at his recent review hearing, held on March 24, 2025, respecting his recovery journey, his participation in programming, his involvement in fishing and harvesting, and his relationships with his family. In particular, the panel considered the information described at paragraphs 38-42 of our reasons in 2025 HCD 25-001.

22. In making a decision, the panel considered the factors set out in section 11 of the Act. The panel's considerations included the matters discussed below.

23. 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.

24. One of the victims, Jacquie, also lives in the community. Jacquie did not wish to attend the hearing but confirmed that she had since had positive interactions with Paulo and that he had apologized to her.

25. Paulo recognized that the offence giving rise to the exclusion order involved alcohol. He stated that he has been working on his substance use issues and drinking less. He continues to participate in counselling regularly, which was one of the requirements of the interim order.

26. Paulo was honest about his struggles with addiction as well as his criminal history. He 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 at various times.

27. Although Paulo has breached court orders in the past, the panel does not consider this factor determinative with respect to whether he poses an unreasonable risk to public safety at this time.

28. Since appearing before the panel at his review hearing, Paulo has continued to support his family, particularly his niece Martha, to harvest traditional foods. Paulo indicated that he speaks to Martha daily and the panel acknowledges that they are each a source of support for one another. The panel also recognizes that Paulo's brother Larry, who accompanied him at this hearing and at his review hearing, is an important part of Paulo's support network.

IV. DECISION

29. The panel recognizes the work that Paulo has done to improve himself and build a more positive life, and encourages Paulo to continue to work on himself moving forward. We remind him of the importance of upholding the sacred principles of ʔiisaak (greater respect), ʔuuʔałuk (taking care of), and Hišuk ma c̓awak (everything is connected), which includes interacting respectfully with government staff and all others, and of acting as a good role model for younger Huu-ay-aht citizens. We also encourage him to stay informed and take advantage of the many

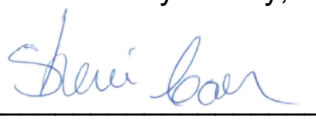
supports, programs, and community events that the Nation offers in Anacla now that he is permitted to go there.

30. The panel has determined that Paulo does not pose an unreasonable risk to public safety.

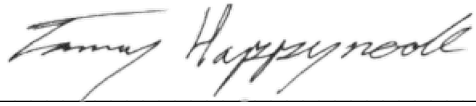
V. ORDER

The Ḥawiiḥ Council orders that the exclusion order dated March 20, 2025 is rescinded.

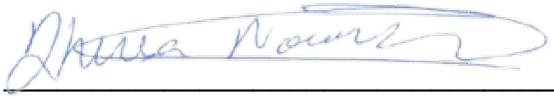
Decided this 1st day of May, 2025.



Yaalthuuaa-uks (Sherri Cook)



ḥapinyook (Tommy Happynook)



Thlut'as aksup (Theresa Nookemus)