

PASSED

CHEROKEE COUNCIL HOUSE
CHEROKEE, QUALLA BOUNDARY, NC

7797 11 NVI
Date: JAN 11 2022

RESOLUTION NO. 112 (2022)

A resolution to exclude James Cassidy Smith from the lands of the Eastern Band of Cherokee Indians.

- WHEREAS, the Eastern Band of Cherokee Indians (“EBCI” or “Tribe”) has the sovereign authority to exclude persons from lands of the Eastern Band in order to protect the integrity, law and order of the lands, and the welfare of Tribal members; and
- WHEREAS, the Tribal Council has codified its authority to exclude persons from the lands of the Eastern Band at Chapter 2 of the Cherokee Code; and
- WHEREAS, the power to exclude is an inherent and essential part of Tribal sovereignty that is indispensable to the Tribe's autonomy and self-governance; and
- WHEREAS, JAMES CASSIDY SMITH (Date of Birth: 08/21/1980) is not a member of the Eastern Band of Cherokee Indians, and has been residing in Swain County, North Carolina; and
- WHEREAS, on the evening hours of December 8, 2021, JAMES CASSIDY SMITH was arrested at the intersection of Goose Creek Road and Five Oaks and was charged with Possession of Methamphetamine, in violation of N.C.G.S. 90-95(A)(3), in Swain County District Court; and
- WHEREAS, after being arrested, Cherokee Indian Police Officers transported JAMES CASSIDY SMITH to the Cherokee Detention Center to perform a determination of jurisdiction and serve a Writ of Temporary Emergency Exclusion on him; and
- WHEREAS, on December 8, 2021, JAMES CASSIDY SMITH was served a Writ of Temporary Emergency Exclusion and told to appear before Tribal Council on January 6, 2022, for a hearing on his exclusion action; and
- WHEREAS, the criminal history check of JAMES CASSIDY SMITH shows prior arrests for Felony Possession of Methamphetamine, Possession of Schedule II Controlled Substance, Possession of Drug Paraphernalia, Assault on a Female, and School Attendance Law Violations, all of which appear to have been charged in the courts of Swain County, North Carolina; and
- WHEREAS, due to the nature of the alleged criminal actions by JAMES CASSIDY SMITH and based on his residing near Tribal trust lands, the Tribal Council has good reason to believe that JAMES CASSIDY SMITH is a threat to the integrity, law and order of EBCI lands and the welfare of the members of the Tribe.

NOW THEREFORE, BE IT RESOLVED by the Tribal Council, in Council assembled with a quorum present, and with the number of votes required by Tribal law, JAMES CASSIDY SMITH is hereby PERMANENTLY EXCLUDED from all Tribal lands and is hereby notified and ordered to vacate all tribal lands.

BE IT FURTHER RESOLVED that this permanent exclusion prohibits JAMES CASSIDY SMITH from entering on or being present on Tribal lands for any purpose except as required by Tribal Council or Tribal Court.

BE IT FURTHER RESOLVED that if JAMES CASSIDY SMITH is found improperly on Tribal lands at any time after the effective date of this resolution, he shall be treated as a trespasser and appropriate legal action shall be taken against him.

BE IT FINALLY RESOLVED that all resolutions inconsistent with this resolution are rescinded, and that this resolution shall become effective when ratified by the Principal Chief.

Submitted by the Attorney General's Office on behalf of the Chief of Police as provided in Cherokee Code Chapter 2.

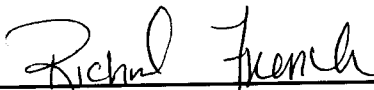
The attached Resolution/Ordinance No. 112 dated JANUARY 11, 2022 was:

PASSED (X)

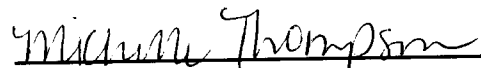
KILLED ()

and ratified in open Council on JANUARY 11, 2022 by 100 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Teresa McCoy	X			
Boyd Owle	X			
Bucky Brown	X			
TW Saunooke	X			
David Wolfe	X			
Adam Wachacha	X			
Bo Crowe	X			
Bill Taylor	X			
Albert Rose	X			
Dike Sneed	X			
Tommye Saunooke	X			
	100	0	0	0



TRIBAL COUNCIL CHAIRMAN



ENGLISH CLERK



PRINCIPAL CHIEF

APPROVED (✓) VETOED ()

VETO UPHeld () VETO DENIED ()

DATE: 1-12-22

I hereby certify that the foregoing act of the Council was duly:

PASSED ()

KILLED ()

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

INTERPRETED ()

OMITTED ()