

PASSED

CHEROKEE COUNCIL HOUSE
CHEROKEE, QUALLA BOUNDARY, NC

Date: MAR 05 2024

RESOLUTION NO. 123 (2024)

A resolution to exclude Devin Leigh Welch 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, DEVIN LEIGH WELCH (Date of Birth: 09/14/1978) is not a member of the EBCI or any other federally recognized Indian Tribe; and
- WHEREAS, on February 9, 2024, Cherokee Indian Police Department (“CIPD”) officers came into contact with DEVIN LEIGH WELCH, at 719 Seven Clans Lane, on Tribal trust lands upon the Qualla Boundary; and
- WHEREAS, DEVIN LEIGH WELCH was alleged to be in possession of a substantial quantity to controlled substances, including 45 pills of oxycodone, nearly 30 grams of Fentanyl, and 7.4 grams of cocaine; and
- WHEREAS, DEVIN LEIGH WELCH was charged in Jackson County District Court with two counts of Trafficking in Opium or Heroin, two counts of Possession With the Intent to Manufacture, Sale or Deliver a Schedule II Controlled Substance, and one count of Maintaining a Vehicle or Dwelling for Controlled Substances (all felonies), in Jackson County file number 24-CR-230891; and
- WHEREAS, DEVIN LEIGH WELCH was also taken before a Cherokee Tribal Court magistrate and issued a Writ of Emergency Temporary Exclusion, Cherokee Court file number 24-TB-02, which excludes WELCH from the Boundary pending further Tribal Council action; and
- WHEREAS, due to the nature of the alleged actions of DEVIN LEIGH WELCH, Tribal Council has good reason to believe that she is a threat to the integrity, law and order of EBCI lands, and the welfare of the members of the Tribe; and

NOW THEREFORE, BE IT RESOLVED by Tribal Council, in Council assembled with a quorum present, and with the number of votes required by Tribal law, DEVIN LEIGH WELCH 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 DEVIN LEE WELCH from entering or being present on Tribal lands for any purpose except as required by Tribal Council or Tribal Court.

BE IT FURTHER RESOLVED that if DEVIN LEIGH WELCH is found improperly on Tribal lands at any time after the effective date of this resolution, she shall be treated as a trespasser and appropriate legal action shall be taken against her.

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 Chief of Police Carla Neadeau.

EASTERN BAND OF CHEROKEE INDIANS

Tribal Council



Writ Application No. (if applicable)
7824-0002

EASTERN BAND OF CHEROKEE INDIANS VERSUS

Name of Individual

Devlin Leigh Welch

Non-Member

Yes

Race

W

Sex

F

DOB

9-14-79

**WRIT OF EMERGENCY
TEMPORARY EXCLUSION**

FINDINGS

Location of Incident

719 Seven Claws LN

Date of Incident

2-9-2024

Time of Incident

23:19

CIFD Case Number

2024-02571

I, the undersigned have reviewed the Application for Writ of Emergency Temporary Exclusion and have determined that probable cause exists that on or about the date of offense shown and in the location named above, the non-member individual named above did commit a Drug Offense, as defined in C.C. §2-9, and thereby constitutes a treat to the integrity and law and order on Tribal lands of the Eastern Band of Cherokee Indians and territory or welfare of its members.

Drug Statute	Offense
45 Oxycodone	Possession with intent to sale, manufacture, Deliver
19.1 grams Fent.	Trafficking Drugs
10.5 grams Fent	Trafficking Drugs
7.4 grams Cocaine	Maintain Dwelling / Vehicle

WRIT

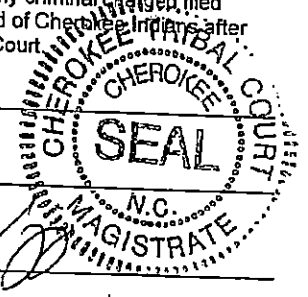
TO THE PERSON NAMED ABOVE

Under the authority of the Laws of the Eastern Band of Cherokee Indians, you are ordered to leave the territorial jurisdiction of the Eastern Band of Cherokee Indians and not to return until permitted by the Tribal Council of the Eastern Band of Cherokee Indians. This application and Writ will be placed on the agenda of Tribal Council on the date and time showed below. You may appear at this hearing where Tribal Council will review all facts and determinations in this matter.

TO ANY CHEROKEE OFFICER

Under the authority of the Laws of the Eastern Band of Cherokee Indians, you are hereby ordered to execute this Writ of Emergency Temporary Exclusion by serving a copy of this Writ and Application upon the person named above and transporting this Non-Member to any point outside the territorial jurisdiction of the Eastern Band of Cherokee Indians. This is in addition to any criminal charges filed against the person named above. If this person is found within the territorial jurisdiction of the Eastern Band of Cherokee Indians after the execution of this Writ, they are to be taken into custody and are to be charged in Federal and/or Tribal Court.

FILED
2024 FEB 10
P 3:16
CHEROKEE TRIBAL COURT



Date To Appear

3-5-24

Time To Appear

PM 11:00 AM

Date Of Order

2-10-24

Place To Appear

Council House
Cherokee, Qualla Boundary (NC)

Signature

[Signature]

RETURN OF SERVICE

I certify that was received and served on the defendant as follows:

Date Received

2/10/24

Date of Return

2/10/24

Officer Making Return

[Signature]

EASTERN BAND OF CHEROKEE INDIANS



Date and Time of Application
2-10-24 13:00

Tribal Council

EASTERN BAND OF CHEROKEE INDIANS VERSUS

APPLICATION FOR WRIT OF TEMPORARY EMERGENCY EXCLUSION

Name of Individual Devin Leigh Welch		Non-Member <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Race W	Sex F	DOB 9-14-1978

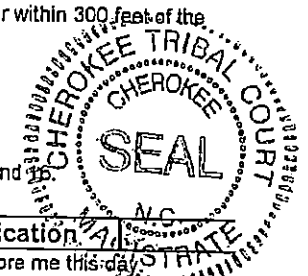
Location of Incident 719 Seven Clans LN	Date of Incident 2-9-24	Time of Incident 23:19	CIPD Case Number 2024-02571
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I, the undersigned, upon information and belief, allege that on or about the date of offense shown and in the location named above, the non-member individual named above did commit a Drug Offense, as defined in C.C. §2-9, and thereby constitutes a treat to the integrity and law and order on Tribal lands of the Eastern Band of Cherokee Indians and territory or welfare of its members, by:

- [C.C. 14-95.5(a)] Possessing a controlled substance classified in schedule I, II, III, IV, and V, specifically
- [C.C. 14-95.5(b)] Possessing a controlled substance, specifically more than one-half ounce of marijuana or more than one-twentieth of an ounce of hashish (Aggravated Possession of Marijuana).
- [C.C. 14-95.5(c)] Possessing a controlled substance, specifically less than one-half ounce of marijuana or less than one-twentieth of an ounce of hashish (Simple Possession of Marijuana). **MUST HAVE AGGRAVATING FACTORS**
- [C.C. 14-95.6(b)] Manufacturing Selling or delivering Possessing with intent to sell or deliver a controlled substance classified in schedule I, II, III, IV, and V, specifically
Description of substance (Kind, Quantity)
Fentanyl 29.6 grams
Oxycodone 45 dosage units
- [C.C. 14-95.6(c)] Manufacturing Selling or delivering Possessing with intent to sell or deliver a controlled substance classified in schedule VI.
- [C.C. 14-95.6(d)] Manufacturing Methamphetamine.
- [C.C. 14-95.7] Manufacturing Selling or delivering Possessing with intent to sell or deliver a counterfeit controlled substance.
- [C.C. 14-95.8(a)] Possessing an immediate precursor chemical with intent to manufacture a controlled substance; or possess or distribute an immediate precursor chemical knowing or having a reasonable cause, to believe that the immediate precursor chemical will be used to manufacture a controlled substance.
- [C.C. 14-95.8(b)] Possessing an immediate precursor chemical with intent to manufacture methamphetamine; or possess or distribute an immediate precursor chemical knowing or having a reasonable cause, to believe that the immediate precursor chemical will be used to manufacture methamphetamine.
- [C.C. 14-95.8(d)] Possessing a seed or ripened ovule of gymnosperm or angiosperm which can be used to produce any controlled substance
- [C.C. 14-95.9] Trafficking in Marijuana Trafficking in Methaqualone Trafficking in Cocaine Trafficking in Methamphetamine/Amphetamine Trafficking in Opiate/ Heroin Trafficking in Lysergic Acid Diethylamide Trafficking in MDA/MDMA
- [C.C. 14-95.10] Transporting, carrying, or otherwise causing, assisting, or providing for the importation of controlled substance or immediate precursor chemical into the territory of the Eastern Band of Cherokee Indians.
- [C.C. 14-95.11(c)] Using, possessing with intent to use drug paraphernalia **MUST HAVE AGGRAVATING FACTORS**
- [C.C. 14-95.11(d)] Delivering, possessing with intent to deliver, or manufacture with intent to deliver drug paraphernalia
- [C.C. 14-95.11(f)] Advertising drug paraphernalia **MUST HAVE AGGRAVATING FACTORS**

AGGRAVATING FACTORS

- [C.C. 14-95.22] Prior convictions
- [C.C. 14-95.23(a)] Sale or delivery of controlled substance to person under 16 years of age or a pregnant female
- [C.C. 14-95.23(b)] Delivery of drug paraphernalia to a person under 16 years of age
- [C.C. 14-95.23(c)] Purchase or receive controlled substance from minor 16 years of age or younger
- [C.C. 14-95.23(d)] Offense committed while pregnant
- [C.C. 14-95.23(e)] Sale or delivery on property used for a school, day care center, playground, or community building or within 300 feet of the boundary of real property used for a school, day care center, playground, or community building
- [C.C. 14-95.23(f)] Possess on property used for a school, day care center, playground, or community building or within 300 feet of the boundary of real property used for a school, day care center, playground, or community building
- [C.C. 14-95.23(g)] Sale or Delivery in the primary residence of a child 13 years of age or younger
- [C.C. 14-95.23(h)] Possession in the primary residence of a child 13 years of age or younger
- [C.C. 14-95.23(i)] Sale or Delivery in the sensory perception of a child 13 years of age or younger
- [C.C. 14-95.23(j)] Possession in the sensory perception of a child 13 years of age or younger
- [C.C. 14-95.23(k)] Possession or Sale or Delivery in the sensory perception or dwelling of a child between 13 and 18 years of age
- [C.C. 14-95.24] Possession of gun at time of offense



I certify that I am a Law Enforcement Officer with the responsibility of enforcing Cherokee Law, I have read the above statement, and I verify that the facts set forth in this application are true and correct to the best of my knowledge.

Official's Certification

Sworn and Subscribed before me this day

Date 2/10/24	Name of Law Enforcement Officer Eli Crowe	Signature of Law Enforcement Officer <i>Eli Crowe</i>	Signature of Designated Official <i>Dy [Signature]</i>	Date 2-10-24
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The attached Resolution/Ordinance No. 123 dated March 5, 2024 was:

PASSED (X)

KILLED ()

and ratified in open Council on MARCH 5, 2024 by 94 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Perry Shell	X			
Boyd Owle	X			
Bucky Brown	X			
Tom Wahnetah	X			
David Wolfe	X			
Adam Wachacha	X			
Mike Parker	X			
Bo Crowe	X			
Jim Owle	X			
Dike Sneed				X
Michael Stamper	X			
	94	0	0	6



TRIBAL COUNCIL CHAIRMAN



ENGLISH CLERK



PRINCIPAL CHIEF

APPROVED () VETOED ()

VETO UPHeld () VETO DENIED ()

DATE: 3-21-24

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 ()