

PASSED

CHEROKEE COUNCIL HOUSE
CHEROKEE, QUALLA BOUNDARY, NC

Date: JUN 06 2024

RESOLUTION NO. 235 (2024)

A resolution to exclude Charles Michael Nash Jr. 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 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, CHARLES MICHAEL NASH JR. (Date of Birth: 07/25/1988) is not a member of the Eastern Band of Cherokee Indians, but is said to be residing in and around the Qualla Boundary; and
- WHEREAS, on April 22, 2024, CIPD officers responded to Enoch Oocumma Road on the Qualla Boundary, where CHARLES MICHAEL NASH JR. was present and alleged to be in possession of methamphetamine and fentanyl; and
- WHEREAS, after investigation and arrest, CHARLES MICHAEL NASH JR. was charged in Jackson County District Court with two felony drug counts (file number 24-CR-289876) and felony larceny of a motor vehicle and felony possession of burglary tools, among other charges (file number 24-CR-289355); and
- WHEREAS, while in custody, CHARLES MICHAEL NASH JR. was served with a Writ of Emergency Temporary Exclusion issued by the Tribal Magistrate on April 25, 2024, with a Tribal Council hearing date set; and
- WHEREAS, CHARLES MICHAEL NASH JR. has an extensive criminal history and history of involvement with the Cherokee Indian Police Department, which includes more than 44 official contacts for arrests, investigations, and paper service; and
- 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, CHARLES MICHAEL NASH JR. 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 CHARLES MICHAEL NASH JR. 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 CHARLES MICHAEL NASH JR. 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 Chief of Police Carla Neadeau.

EASTERN BAND OF CHEROKEE INDIANS

EBCI



Application No (if applicable)

1324-0004

Tribal Council

2024 APR 25 PM 6:14

EASTERN BAND OF CHEROKEE INDIANS VERSUS

Name of Individual

Charles Michael Nash Jr.

Non-Member

Yes

Race

White

Sex

Male

DOB

7/25/88

FILED WRIT OF EMERGENCY
TEMPORARY EXCLUSION

FINDINGS

Location of Incident

76 Enoch Occumma Rd

Date of Incident

4-22-2024

Time of Incident

1:07 PM

CIPD Case Number

2024-07526

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

90-95(A)(3)

Possess. Methamphetamine Felony

90-95(A)(3)

Possess. Sch. II Controlled Substance Felony (Fentanyl)

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 charged 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.

Date To Appear

06-04-2024

Time To Appear

PM 9:00 AM

Date Of Order

4/25/2024

Place To Appear

Council House
Cherokee, Qualla Boundary (NC)

Signature

RETURN OF SERVICE

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

Served Person in Jail Jackson Co

Date Received

4/25/2024

Date of Return

4-25-24

Officer Making Return

TSU 12

TB24-0004

EASTERN BAND OF CHEROKEE INDIANS



Date and Time of Application 2/24/24 3:23 PM

Tribal Council

2024 APR 25 PM 6:14

EASTERN BAND OF CHEROKEE INDIANS VERSUS

Name of Individual Charles Michael Nash Jr.		Non-Member <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Race White	Sex Male	DOB 7-25-1988

APPLICATION FOR WRIT OF TEMPORARY EMERGENCY EXCLUSION

Location of Incident 716 Enoch Occumma Rd	Date of Incident 4-22-2024	Time of Incident 1:07 PM	CIPD Case Number 2024-07526
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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 Methamphetamine, Fentanyl
- [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
- [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 16.
- [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 4/25/24	Name of Law Enforcement Officer Nathan Messer	Signature of Law Enforcement Officer
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Signature of Designated Official	Date 4/25/2024
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The attached Resolution/Ordinance 235 dated JUNE 6, 2024 was:

PASSED (X)

KILLED ()

and ratified in open Council on June 06, 2024 by 82 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			
	82	0	0	18

TRIBAL COUNCIL CHAIRMAN

ENGLISH CLERK

PRINCIPAL CHIEF

APPROVED (✓) VETOED ()

VETO UPHELD () VETO DENIED ()

DATE: 6-25-24

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 ()