

PASSED

CHEROKEE COUNCIL HOUSE
CHEROKEE, QUALLA BOUNDARY, NC

Date: JUN 06 2024

RESOLUTION NO. 238 (2024)

A resolution to exclude Charley Nicole Willard 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, CHARLEY NICOLE WILLARD (Date of Birth: 06/22/1988) is not a member of the Eastern Band of Cherokee Indians, but is said to be residing in Asheville or around western North Carolina; and

WHEREAS, on May 16, 2024, CIPD officers responded to Tsalagi Road on the Qualla Boundary, where CHARLEY NICOLE WILLARD was present and alleged to be in possession of two different controlled substance; and

WHEREAS, after investigation and arrest, CHARLEY NICOLE WILLARD was charged in Swain County District Court with two counts of felony possession of a scheduled II controlled substance (methamphetamine and fentanyl) in Swain County file number 24-CR-308414; and

WHEREAS, while in custody, CHARLEY NICOLE WILLARD was served with a Writ of Emergency Temporary Exclusion issued by the Tribal Magistrate on May 16, 2024, with a Tribal Council hearing date set; 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, CHARLEY NICOLE WILLARD 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 CHARLEY NICOLE WILLARD 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 CHARLEY NICOLE WILLARD 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BE IT FINALLY RESOLVED that all resolutions inconsistent with this resolution are rescinded, and that this resolution shall become effective when ratified by the Principal Chief.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

EDCI

CHEROKEE COURT



Writ Application No (if applicable)

TB24-0006

Tribal Council

EASTERN BAND OF CHEROKEE INDIANS VERSUS

2024 MAY 16 PM 9:57

Name of Individual

Charley Nicole Willard

Non-Member

Yes

Race

Wht

Sex

Female

DOB

6/22/88

FILED

**WRIT OF EMERGENCY
TEMPORARY EXCLUSION**

FINDINGS

Location of Incident

Sealagi Rd. Cherokee N.C.

Date of Incident

5/16/24

Time of Incident

02:54 am

CIPD Case Number

2024-09035

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)

Felony Possession Sch II CS

90-95(A)(3)

Felony Possession Sch II CS

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-11:00

AM

Date Of Order

5-16-2024

Place To Appear

Council House
Cherokee, Qualla Boundary (NC)

Signature

[Handwritten Signature]



RETURN OF SERVICE

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

Hand to hand transfer

Date Received

10-16-24

Date of Return

10-16-24

Officer Making Return

Sgt. C. Owle

24-0006

EASTERN BAND OF CHEROKEE INDIANS

CHEROKEE TRIBAL COURT
Date and Time of Application
5/16/2024 9:54 PM
2024 MAY 16 PM 9:57
TB24-0006

Tribal Council

EASTERN BAND OF CHEROKEE INDIANS VERSUS

FILED APPLICATION FOR WRIT OF TEMPORARY EMERGENCY EXCLUSION

Name of Individual: Charley Nicole Willard
Non-Member: Yes No
Race: Wht Sex: Female DOB: 6/22/88

Location of Incident: 7501st Rd, Cherokee N.C. Date of Incident: 5/16/24 Time of Incident: 02:59 AM CIPD Case Number: 2024-09035

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) Description of substance (Kind, Quantity): Methamphetamine, Fentanyl - 3.9 grams, 1.9 grams
- [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)
- [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: 5/16/24 Name of Law Enforcement Officer: Sgt. Owle Signature of Law Enforcement Officer: [Signature]

Signature of Designated Official: [Signature] Date: 5/16/24

The attached Resolution/Ordinance 238 dated JUNE 6, 2024 was:

PASSED (X)

KILLED ()

and ratified in open Council on June 06, 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

Mike Parker

TRIBAL COUNCIL CHAIRMAN

Michelle Thompson

ENGLISH CLERK

Michael Hails

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 ()