

**DEVON TYLER BARBER, Plaintiff, Pro Se**

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**SUPERIOR COURT OF NEW JERSEY**

**LAW DIVISION, CIVIL PART**

**ATLANTIC COUNTY**

**DEVON TYLER BARBER,**  
Plaintiff / Applicant,

v.

**HAMILTON TOWNSHIP POLICE  
DEPARTMENT;  
TOWNSHIP OF HAMILTON;  
DIRKES AUTO LLC d/b/a DIRKES  
TOWING;  
OFFICER EDWARD RUIZ (Badge No.  
0132);  
OFFICER MERRITT (Badge No. \_\_\_\_);  
and JOHN/JANE DOE OFFICERS 1–10,**  
Defendants.

Docket No.: **ATL-L-003252-25**

**CIVIL ACTION**

**SUPPLEMENTAL VERIFIED  
SUBMISSION  
IN FURTHER SUPPORT OF  
ORDER TO SHOW CAUSE WITH  
TEMPORARY RESTRAINTS  
(R. 4:52-1; R. 4:67-1)**

**PRELIMINARY STATEMENT**

Plaintiff, **Devon Tyler Barber**, respectfully submits this Supplemental Verified Submission to:

1. Present **new and clarifying evidence** obtained after the filing of the original Verified Complaint, Brief, and Order to Show Cause on December 7, 2025;
2. Clarify the **controlling federal constitutional standards** that govern this Court through the **Supremacy Clause, U.S. Const. art. VI**;
3. Update the Court on **ongoing and worsening irreparable harm** caused by the continued unlawful impoundment of Plaintiff's 2019 Volkswagen Passat (F35VLP); and
4. Demonstrate that **no statutory, evidentiary, public-safety, or community-caretaking basis** exists or has ever existed for the seizure or continued retention of Plaintiff's vehicle, and that municipal charges cannot retroactively validate the impoundment.

The original OTSC record already established that:

- No civil forfeiture complaint, warrant, or court order authorizes continued retention;

- The Atlantic County Prosecutor’s Office (ACPO) confirmed it has **no 911, CAD, or call-for-service record** supporting the seizure;
- The vehicle was operable, safely parked, not contraband, and not evidence of any Title 39 impoundable offense;
- Plaintiff is indigent, formerly homeless, and supported through EA/GA programs. His vehicle is essential to his livelihood, client engagement, access to tools and storage, and the stability of his housing. It also enables him to engage in the normal pursuits, routines, and dignities of daily life—including the ability to work, move freely, and pursue happiness without causing harm to anyone.
- Continued impoundment results in **severe hardship**, including the loss of property, work, tools, compensation, economic opportunity, and the beneficial use of his own vehicle—undermining both his livelihood and the meaningful progress he has made in rebuilding his life.

This supplement shows that the case has now ripened into a **pure constitutional and prerogative-writ emergency**: there is **still no lawful basis** for the impound, no discovery from Hamilton Township Police Department (“HTPD”), no inventory, no tow authorization, no chain of custody, and no judicial process authorizing continued deprivation.

Under binding federal law and New Jersey’s equitable doctrines, the Court should **grant the OTSC, order immediate release of the vehicle without fees, stay and nullify storage charges, and compel production of minimal impound documentation.**

## **PROCEDURAL HISTORY (BRIEF)**

1. On **December 1, 2025**, Plaintiff filed in Central Municipal Court a **Motion for Release of Impounded Vehicle Without Payment of Fees**, with certification and brief, and served the Municipal Prosecutor, HTPD, and others, together with a **R. 7:7-7 discovery request** and preservation demand.
2. On **December 4, 2025**, Plaintiff served a detailed **Internal Affairs complaint, litigation hold, and preservation demand** on HTPD’s Chief and Internal Affairs, challenging the impoundment as ultra vires and demanding release, preservation, and fee waiver.
3. On **December 4, 2025**, the **Atlantic County Prosecutor’s Office** responded to Plaintiff’s OPRA request by confirming that it possessed “**no responsive records**” as to 911, CAD, or dispatch records relating to the November 29–30, 2025 incident.

4. On **December 7, 2025**, Plaintiff filed in this Court a **Verified Complaint, Order to Show Cause with Temporary Restraints, Certification, Brief in Support, Notice of Emergent Circumstances, Proposed Orders, and Certification of Service**, seeking emergent relief under **R. 4:52-1** and **R. 4:67-1**.
5. Plaintiff now files this **Supplemental Verified Submission and Supplemental Certification** to update the record, emphasize federal supremacy, and press for immediate entry of temporary restraints and return of the vehicle.

## POINT I

### THE NEWLY CLARIFIED RECORD SHOWS THERE WAS NEVER ANY LAWFUL BASIS FOR THE STOP, SEIZURE, OR IMPOUNDMENT

Plaintiff's original filings established that:

- The vehicle was seized after a traffic stop on November 29, 2025;
- No forfeiture complaint, warrant, or court order supports continued retention;
- The Atlantic County Prosecutor's Office has **no 911, CAD, or dispatch record** supporting any public-safety basis for the stop or seizure;
- The vehicle was operable, safely positioned, and not a hazard;
- The municipal charges (disorderly conduct, resisting, obstruction) do not authorize an impound under Title 39.

The **OPRA correspondence** from ACPO now stands effectively uncontradicted:

- There is **no 911 call**;
- **No CAD event**;
- **No dispatch log**;
- **No call-for-service**;
- **No documented pre-stop plate inquiry or public-safety alert**.

For a nighttime roadway stop with multiple officers and a tow, that absence of record is stark. It confirms that:

- The stop was not based on any reported crime or incident;
- The seizure was not initiated in response to a dispatch or emergency;
- No documented community-caretaking rationale exists;
- There is no recorded evidentiary or safety justification for a tow.

In addition, HTPD has not produced a **tow authorization, inventory, impound notice**, or **chain-of-custody** documentation despite Plaintiff's municipal discovery request, civil filings, and repeated written demands.

The Court is thus presented not with a disputed factual record, but with a **near-total absence of any lawful predicate** for an impoundment that has now continued for weeks.

## POINT II

### FEDERAL CONSTITUTIONAL LAW, AS SUPREME LAW OF THE LAND, FORBIDS THIS SEIZURE AND CONTINUED RETENTION

Article VI of the United States Constitution provides:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

New Jersey courts are therefore **bound** to apply federal Fourth Amendment doctrine in assessing whether this seizure and continued retention are lawful.

Key controlling principles include:

1. **Rodriguez v. United States, 575 U.S. 348 (2015).**

A traffic stop must remain tied to its original mission; officers may not prolong or expand it absent independent reasonable suspicion. An unjustified expansion or extension of the stop is an unconstitutional seizure.

2. **Delaware v. Prouse, 440 U.S. 648 (1979).**

Random or unsupported stops of vehicles for license/registration checks violate the Fourth Amendment; an officer must have at least articulable suspicion.

3. **Cady v. Dombrowski, 413 U.S. 433 (1973) and South Dakota v. Opperman, 428 U.S. 364 (1976).**

"Community caretaking" impoundments are limited to genuine safety or caretaking needs, not convenience or punitive leverage. Inventory procedures must be standardized and non-pretextual.

4. **Arizona v. Gant, 556 U.S. 332 (2009).**

Vehicle seizures and searches incident to arrest must be tethered to officer safety or

evidence preservation; they cannot be used as generalized evidence-gathering or punishment.

5. **United States v. Place, 462 U.S. 696 (1983).**

A seizure that might be momentarily justified can become unreasonable if prolonged without adequate justification.

Here, the record as it stands shows:

- No 911, CAD, or dispatch basis for initiating the stop;
- No warrant, no exigency, no forfeiture action;
- No documented standardized impound criteria or inventory;
- No evidence that the vehicle was a hazard or contained perishable evidence;
- No lawful basis for prolonged retention or fee-based leverage.

Under the **Supremacy Clause**, this Court must give effect to these federal standards:

- An unsupported, undocumented stop is unconstitutional at inception;
- An impoundment without safety or evidentiary need is unconstitutional;
- A prolonged retention without judicial process or statutory authority is unconstitutional.

Once the seizure is unconstitutional, **New Jersey may not lawfully condition release upon payment of towing or storage fees** arising from that seizure.

## **POINT III**

### **NEW JERSEY’S OWN PRECEDENT AND EQUITABLE DOCTRINES CONFIRM THAT THE IMPOUNDMENT IS ULTRA VIRES AND FUNDAMENTALLY UNFAIR**

New Jersey’s Supreme Court and Appellate Division have repeatedly held that:

- Police may impound vehicles only when expressly authorized by statute, ordinance, or standardized, constitutionally valid policy;
- Courts must consider **less restrictive alternatives** such as leaving a car lawfully parked or releasing it to a licensed driver;
- Government may not profit from or impose costs arising from an unlawful seizure;
- Fundamental fairness and equitable principles permit courts to intervene where municipal practices produce grossly disproportionate hardship.

Plaintiff's municipal motion and Internal Affairs letter already invoked cases such as *State v. One 1990 Honda Accord*, *State v. Mangold*, *State v. Edmonds*, *State v. Hill*, *State v. Gibson*, and related authorities. The core principles are:

- Absent statutory or community-caretaking necessity, impoundment is **ultra vires** and must be reversed;
- Charges filed after the fact cannot retroactively justify an earlier impoundment;
- Courts may order release without fees when fairness requires.

Here, the equities are not close:

- Plaintiff was homeless at the time of seizure and living from the vehicle;
- Plaintiff is GA/EA-dependent, with no ability to pay storage fees;
- The vehicle held shelter, tools, clothing, and personal property;
- Plaintiff now has a stable address where the vehicle can be safely parked;
- Daily deprivation continues to jeopardize his employment, housing stability, and access to property.

Under **R. 1:1-2**, this Court may relax rules or exercise equitable jurisdiction whenever strict adherence would work an injustice. That standard is plainly met.

## **POINT IV**

### **EXCESSIVE FORCE, CONTRADICTORY COMMANDS, AND LACK OF CLEAR ARREST ANNOUNCEMENT UNDERMINE THE REASONABLENESS OF THE ENTIRE SEIZURE**

Plaintiff's municipal Certification (Dec. 1, 2025) and his long-form Certification in this action describe:

- Contradictory and confusing commands;
- Officer Ruiz pulling Plaintiff by his collar and shirt;
- Officer Merritt pulling Plaintiff by his legs;
- No clear announcement that Plaintiff was under arrest before force was used;
- Escalation despite Plaintiff not posing a threat or creating a hazard.

Under **Graham v. Connor**, **Kopec v. Tate**, and New Jersey excessive-force jurisprudence, the reasonableness of force is central to the reasonableness of the seizure itself. When officers

escalate in this fashion during a routine traffic encounter, then **immediately order a tow**, the resulting impoundment is inseparable from the constitutional defect.

This strengthens—not weakens—the conclusion that the entire exercise of authority, including the tow, is unlawful and should not be enforced.

## POINT V

### IRREPARABLE HARM HAS WORSENERD AND CONTINUES EACH DAY WITHOUT JUDICIAL INTERVENTION

Since the filing of the December 7, 2025 OTSC:

- Plaintiff's vehicle remains in impound without access to tools, work equipment, clothing, and personal property;
- Plaintiff's ability to accept and perform work as a licensed tradesman has been severely constrained;
- Plaintiff's new housing in Atlantic City depends on his ability to maintain income and transportation;
- HTPD and Dirkes have not voluntarily released the vehicle or granted meaningful access to property inside;
- No forfeiture or lawful process has been initiated to justify continued deprivation.

Under **Crowe v. De Gioia, 90 N.J. 126 (1982)**:

1. **Irreparable harm** – Loss of tools, work, stability, and personal property is not compensable in money alone;
2. **Likelihood of success** – The record shows no lawful basis for the impound and no statutory or evidentiary justification;
3. **Balance of equities** – Plaintiff suffers catastrophic harm; Defendants merely return unlawfully held property;
4. **Public interest** – Upholding constitutional limitations on seizures and preventing municipalities from profiting from unlawful impounds serves the public interest.

All four elements strongly favor granting emergent relief.

### CONCLUSION AND PRAYER FOR RELIEF

For the reasons set forth in:

- The **Verified Complaint** and **original OTSC papers** filed December 7, 2025; and

- This **Supplemental Verified Submission** and **Supplemental Certification**,

Plaintiff respectfully requests that the Court:

1. **Enter the previously-submitted Order to Show Cause with Temporary Restraints**, or a functionally equivalent order, immediately;
2. **Order the immediate release** of Plaintiff's 2019 Volkswagen Passat (F35VLP) to Plaintiff or his designee **without payment of towing, storage, administrative, or related fees**;
3. **Stay and nullify all storage fees** from November 29, 2025 to the date of release, pending further order of the Court;
4. **Order HTPD and Dirkes** to produce within **24 hours**:
  - tow authorization;
  - impound notice;
  - inventory and property list;
  - condition report;
  - chain-of-custody and photographs;
    - any written basis for the seizure and continued retention;
5. Direct Defendants to **preserve all evidence**, including BWC, dash-cam, booking video, station recordings, CAD, MDT, radio audio, tow logs, and AVL/GPS; and
6. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted,

/s/ **Devon Tyler Barber**

Plaintiff, Pro Se

Dated: December 11<sup>th</sup>, 2025