

**DEVON TYLER BARBER,**  
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**SUPERIOR COURT OF NEW JERSEY**  
**LAW DIVISION – CIVIL PART**  
**ATLANTIC COUNTY**

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

v.

**TOWNSHIP OF HAMILTON, et al.,**  
Defendants.

Docket No.: ATL-L-003252-25

**PLAINTIFF'S LIMITED REPLY**  
**BRIEF**

*(Constitutional Clarification;  
Public-Interest Impact)*

**Devon Tyler Barber, Plaintiff, pro se**, respectfully submits this Limited Reply to address Defendants' statutory framing and to clarify the constitutional stakes of this matter, which extend beyond Plaintiff and affect all New Jersey residents subject to municipal enforcement.

**(A) THIS CASE PRESENTS A FUNDAMENTAL CONSTITUTIONAL LIMIT ON MUNICIPAL POWER**

Defendants' opposition relies almost exclusively on statutory citations. Plaintiff does not dispute that statutes exist. However, **statutes do not confer unlimited authority**, nor may they be enforced in a manner that overrides constitutional protections.

Under both the **United States Constitution** and the **New Jersey Constitution**, government actors are constrained by principles of reasonableness, proportionality, and due process. A municipality may exercise only such authority as the law permits, and **that authority ends where constitutional injury begins**.

The issue before the Court is therefore not whether statutes can be cited, but whether **their application here authorizes the ongoing deprivation of private property without judicial oversight or necessity**. It does not.

**(B) DEFENDANTS' OWN RECORD DEMONSTRATES THE ABSENCE OF LAWFUL JUSTIFICATION**

Defendants' submitted materials establish that:

- Plaintiff is the **undisputed registered owner** of the vehicle;
- There was **no 911 call**, no call for service, and no report of a dangerous motorist;
- The vehicle is **not evidence**, not contraband, and is expressly **releasable**.

These facts foreclose any claim that continued retention serves a community-caretaking or public-safety function. **Issuance of traffic summonses does not transform private property into a forfeitable or indefinitely retainable asset.**

To permit retention under these circumstances would authorize municipalities to impose economic punishment without adjudication—**a result incompatible with constitutional governance.**

**(C) CONSEQUENCES OF DEFENDANTS' POSITION EXTEND TO ALL NEW JERSEY RESIDENTS**

If Defendants' theory were accepted, any New Jersey resident could be deprived of essential property based solely on administrative allegations, conditioned on payment and compliance, **without a court order and without a showing of necessity.**

Such a rule would disproportionately burden working residents, those facing housing instability, and those of limited means—transforming regulatory enforcement into a mechanism of coercion rather than lawful governance.

The Constitution exists precisely to prevent this result.

**(D) CONTINUED RETENTION CONSTITUTES AN ONGOING CONSTITUTIONAL INJURY**

Municipal enforcement **must be individualized, proportionate, and grounded in actual necessity.** Automatic practices—whether administrative or fee-incident—**cannot substitute for constitutionally required judgment. Where less restrictive alternatives exist and no public-safety exigency is present, continued retention of private property exceeds what due process permits.**

Here, continued retention of Plaintiff's vehicle—absent judicial authorization—inflicts ongoing harm, including interference with lawful employment, housing stability, and basic mobility.

Conditioning return on administrative prerequisites and fees, without lawful authority, **constitutes an unreasonable seizure and a denial of procedural due process.** Defendants' approach reflects an automatic impoundment decision rather than an individualized assessment. There was no accident, no call for service, and no community-caretaking finding. Constitutional enforcement requires consideration of less restrictive alternatives. Transport-only release or release to a licensed agent satisfies public safety without continuing an unlawful deprivation.

**(E) RELIEF REMAINS NECESSARY AND APPROPRIATE**

Because the tow itself is disputed, and because there was no accident, no call for service, and no finding of dangerous operation, **transport conditions preserve public safety without continuing an unconstitutional deprivation.** Defendants identify no lawful basis for continued retention, and the harm to Plaintiff is ongoing. Accordingly, the Court should:

1. **Order immediate release** of Plaintiff's vehicle; and
2. **Prohibit further retention** absent a valid court order or demonstrable lawful necessity.

**(F) MISCHARACTERIZATION OF PLAINTIFF'S EXPRESSION AND LACK OF DUE PROCESS**

*(Freedom of Expression; Due Process; Record Accuracy)*

1. Defendants' opposition mischaracterizes Plaintiff's statements during the stop in a manner that improperly converts protected expression into purported noncompliance.
2. Plaintiff did **not** claim that "God insured" the vehicle or otherwise substitute religious belief for legal compliance. Plaintiff stated that he had **assurance**—in the ordinary sense of confidence and good faith—while physically presenting **Superior Court paperwork** reflecting active judicial proceedings. Any reference to faith was **expressive speech**, not a legal assertion, and cannot lawfully be used to infer intent, risk, or noncompliance.
3. The First Amendment protects expressive speech, including religious expression. Government actors may not **weaponize protected speech** by reinterpreting it as a factual claim or as a basis for adverse enforcement action. Doing so converts expression into evidence and undermines due process.
4. The record further reflects that within approximately **eight minutes** of the traffic stop, officers contacted a tow operator—**before** any community-caretaking assessment, **without** a call for service, **without** a report of a dangerous motorist, and **without** any effort to pursue less restrictive alternatives. The timing demonstrates that the decision to tow was effectively predetermined and administrative, not responsive to public safety.
5. Plaintiff is a New Jersey resident and American citizen with a documented disability, including PTSD, and communicates through writing. These facts do not diminish his rights. To the contrary, they heighten the obligation of government actors to proceed deliberately, accurately, and with procedural fairness. Prior justice-system involvement does not negate present constitutional protections, nor does it authorize summary deprivation of property.

6. Taken together, the mischaracterization of Plaintiff's words and the rapid initiation of towing—absent a community-caretaking rationale or judicial authorization—underscore the lack of due process and the unreasonableness of continued retention. The vehicle was not evidence, not contraband, and posed no public-safety risk. Continued deprivation based on distorted speech and administrative momentum is incompatible with constitutional governance.

**(G) CONCLUSION**

1. Municipalities serve the public; they do not govern above it. Statutes cannot be wielded to justify the deprivation of private property in derogation of constitutional limits. **This Court's intervention is necessary not only to remedy the harm to Plaintiff, but to reaffirm the protections owed to all New Jersey residents.**

Respectfully submitted,  
**/s/ Devon Tyler Barber**  
Plaintiff, pro se  
Dated: 12/19/2025

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**(PROPOSED) ORDER**

**THIS MATTER** having been opened to the Court by Plaintiff, **Devon Tyler Barber**, pro se, by way of Verified Complaint and Order to Show Cause seeking relief related to the continued retention of Plaintiff's motor vehicle, which constitutes Plaintiff's personal property; and

**WHEREAS** Plaintiff appears pro se, and the Court has construed Plaintiff's submissions liberally in accordance with established New Jersey practice to ensure access to justice and adjudication on the merits; and

**WHEREAS** Plaintiff represents, and Defendants do not dispute for purposes of this application, that Plaintiff's driver's license status is the subject of ongoing judicial review, and no final adjudication has been entered; and

**THE COURT** having reviewed the papers submitted, including Defendants' opposition and Plaintiff's Limited Reply Brief; and

**THE COURT** having considered the arguments of the parties; and

**GOOD CAUSE APPEARING; IT IS** on this \_\_\_\_ day of \_\_\_\_\_, 2025, hereby

**ORDERED** as follows:

1. **Defendants Township of Hamilton, Hamilton Township Police Department, and any agent or custodian acting on their behalf shall immediately release Plaintiff's motor vehicle for possession by Plaintiff.**

2. Plaintiff is authorized to take possession of and operate the vehicle solely for the limited purpose of transporting it from the impound location to Plaintiff's residence in Atlantic City, New Jersey, or to another location approved by the Court.
3. This limited authorization is granted solely to prevent ongoing deprivation of property and shall not be construed as a determination regarding license status, guilt, or any underlying motor-vehicle or criminal charges, all of which remain subject to separate proceedings and judicial review.
4. Plaintiff shall assume full personal responsibility for any damage to property or injury arising from the limited operation authorized by this Order. Nothing herein shall impose liability upon Defendants or the Court for Plaintiff's actions during such limited transport.
5. In the alternative, should Defendants object to Plaintiff's limited operation, Defendants shall arrange transport of the vehicle by flatbed or other lawful means at Defendants' expense.
6. No towing or storage fees shall be required as a condition of release, as Plaintiff disputes the lawfulness of the tow and continued retention, and the matter is pending judicial review.
7. This Order is entered without prejudice to any pending or future municipal, civil, or appellate proceedings, including but not limited to any motor-vehicle or criminal matters, and addresses possession and transport only.
8. The Court retains jurisdiction to enforce this Order.

HON. \_\_\_\_\_, J.S.C.