

**CIVIL DIVISION**

CLAIM NO. SU2024CV01883

BETWEEN	NIGEL WILMOT	CLAIMANT
AND	THE ATTORNEY GENERAL OF JAMAICA	FIRST DEFENDANT
AND	THE JAMAICA CONSTABULARY FORCE	SECOND DEFENDANT

IN OPEN COURT

Mr Gordon McFarlane instructed by the McFarlane Firm Ja for the Claimant

Ms Kristina Jones instructed by the Director of State Proceedings for the Defendants

Heard: February 19, April 30 & September 21, 2026

Constitutional law — Charter of Fundamental Rights and Freedoms — Road Traffic Act 2018 — Traffic Stops — Detention — Production of Driver and Vehicle Documents — Freedom of Movement — Liberty — Privacy — Protection from Search — Seizure and Continued Detention of Motor Vehicle — Protection of Property — False Imprisonment — Detinue — Conversion — Damages

WINT-BLAIR, J

The Parties

[1] Mr Nigel Wilmot is the claimant. He has brought a constitutional claim, alleging that members of the Jamaica Constabulary Force breached his rights under the Charter, including his rights to liberty, freedom of movement, privacy, protection from search and protection of property. Mr Wilmot seeks declarations that the

police breached his rights under the Charter and constitutional damages for those alleged breaches.

- [2] Mr Wilmot has also filed civil claims, which the Court has heard in the same trial on the same date. He claims for false imprisonment, detainee and conversion. He seeks damages for false imprisonment, detainee and conversion, recovery of the towing and storage charges, and damages for loss of use of the Mazda and embarrassment he felt.
- [3] The Attorney General of Jamaica is the first defendant in the constitutional claim, and defends the alleged breaches by organs of the State. In the civil claims, the Attorney General is sued as the representative of the Crown for the acts of the police officers concerned.
- [4] The Jamaica Constabulary Force is listed as the second defendant. The claim was defended on its merits, but there is no need for separate substantive relief against the JCF apart from the Attorney General.
- [5] I considered evidence, written submissions, and authorities. Having reviewed all that has been presented, and with all due respect to the industry of both counsel, I will refer only to what is necessary to decide the case in this judgment.

The Evidence

Mr Wilmot

- [6] Mr Wilmot owns a 1990 Mazda RX-7, with licence plate number 9396KS. He had some difficulty recalling the plate number as he had other vehicles. He said that a registration certificate for the Mazda was issued on 7 March 2024. His driver's licence and insurance were current.
- [7] The Mazda had been wrapped in green with red streaks. Its certificate of fitness described the colour as green, but the registration and licensing particulars

described it as red. The front registration plate was fitted at the extreme right of the vehicle when viewed from the front.

- [8]** On 18 March 2024, Mr Wilmot was driving west along Washington Boulevard¹ when a uniformed constable signalled him to stop. Mr Wilmot said that the constable did not identify himself and did not initially explain the reason for the stop. Mr Wilmot nevertheless produced his driver's licence and the Mazda's registration, fitness and insurance documents.
- [9]** Mr Wilmot stated that the officer asked about the Mazda's colour mismatch and instructed him to follow the police to the Examination Depot, where an examiner would remove the licence plates. Mr Wilmot took out his cell phone and called his attorney. Afterwards, the constable issued Ticket E000499003 for operating a vehicle in breach of its licence conditions and permitted him to leave. Mr Wilmot denied changing lanes without signalling.
- [10]** On 19 March 2024, Mr Wilmot was again driving west along Washington Boulevard in a line of traffic when a uniformed constable stepped into the road and signalled him to stop. Mr Wilmot said that he stopped in the middle lane, and said he had committed no offence. He was directed to move left and pull over. He said he pulled to the left but continued driving in the left lane at the speed limit because there was no safe place to stop. He turned into the gas station and parked facing inwards.
- [11]** Mr Wilmot said that several policemen surrounded his car. He repeatedly asked why he had been stopped. His evidence was that he was eventually told the police wanted to check his documents under the RTA. He said that the policemen called him silly and stupid and referred to the Mazda as a race car. He asked whether he was free to leave and was told that he was under arrest while stopped by the police.

¹ Towards Molyne's Road.

He also said that he was threatened to be pulled from the Mazda and locked up unless he produced his documents.

[12] Mr Wilmot called his lawyer. Thereafter, he produced his driver's licence and insurance and offered to show the police photographs on his cell phone of the registration and fitness documents. According to him, the police refused to accept the photographs and demanded originals or certified copies.

[13] Four tickets were issued on 19 March 2024:

1. Ticket E000500806 for failing to obey a constable's command;
2. Ticket E000500809 concerning the certificate of fitness;
3. Ticket E000500811 concerning registration; and
4. Ticket E000500822 for operating the Mazda contrary to the terms and conditions of its motor-vehicle licence for the colour mismatch.

[14] The encounter lasted about thirty minutes. Mr Wilmot drove the Mazda onto the wrecker and travelled with it to the impound lot at Lyndhurst Road. He removed his personal belongings before the Mazda was taken away.

[15] On 20 March 2024, his attorney delivered a written demand to the Superintendent in charge of the Traffic Headquarters for the return of the Mazda without charge. Mr Wilmot paid \$12,000 to the wrecker on 22 March 2024. He said that an unidentified person at the Traffic Headquarters told him that processing the vehicle would take five to seven days. He later paid the Transport Authority \$14,400 in storage charges. The Mazda was released on 26 March 2024.

[16] Mr Wilmot claimed \$10,000 per day for eight days for loss of use, totalling \$80,000. He described himself as a mechanic but did not produce evidence of earnings, evidence that the Mazda earned income, transportation receipts, or any other evidence explaining how he arrived at \$10,000 per day.

- [17] He also said that he was embarrassed because passing motorists appeared to photograph or record him and his distinctive Mazda.
- [18] In cross-examination, Mr Wilmot admitted that the Mazda appeared prominently green, that its certificate of fitness described it as green and that its registration and licensing particulars still described it as red. He admitted that though the colour had been changed, those particulars had not yet been corrected.
- [19] Mr Wilmot also admitted that Sergeant Dawkins had stopped him approximately three weeks earlier. On that occasion he explained that the colour had been changed but the documents had not yet been amended. Sergeant Dawkins allowed him to leave but warned him to park the Mazda until the records were corrected. Mr Wilmot said then, that he was in the process of correcting them.
- [20] Mr Wilmot later pleaded guilty to Ticket E000500806 for failing to obey the direction to pull left and paid a \$6,000 fine. The three other tickets were later withdrawn by the Clerk of Courts. There was no trial and no decision on the facts underlying those tickets. Their withdrawal therefore cannot be used to decide the issues in this trial.
- [21] As this Court explained in **Leon Stephenson v Bank of Nova Scotia and the Attorney General of Jamaica**,² there is a distinction between criminal proceedings ending in a person's favour and a court actually deciding the facts underlying the charge. The withdrawn tickets are relevant only as part of the factual history leading to this claim. The issues in this trial must be decided on the evidence before this Court.

² [2025] JMSC Civ 114 at [102]–[104]

Constable Dean Anglin

- [22] Constable Dean Anglin filed an affidavit on 20 May 2025 and was cross-examined about the first stop. He said that on 18 March 2024 he was in uniform and carrying out traffic duties with Constable Coke near Washington Boulevard.
- [23] Constable Anglin said that he saw the green Mazda move from the middle lane into the left lane without signalling. He walked into the road and stopped it. He said that he identified himself and explained why he had stopped Mr Wilmot.
- [24] He chose to educate Mr Wilmot about the need to signal before changing lanes rather than issue a ticket for that offence. He then inspected the vehicle documents and found that though the Mazda was green, its records described it as red. He issued the colour-mismatch ticket but did not seize the Mazda.
- [25] Constable Anglin denied that he failed to identify himself or explain the reason for the stop. He said that he also prepared a statement for the Traffic Court regarding what had transpired.

Constable Giovanni Graham

- [26] Constable Giovanni Graham filed an affidavit on 20 May 2025 and was cross-examined about the second stop. He said that on 19 March 2024 he was carrying out road-traffic duties on Washington Blvd. He was on the west side of the road with Sergeant Dawkins and Constable Dunkley.
- [27] He said that he saw a green Mazda which resembled a race car and appeared to have no bumper. He could not readily see the front registration plate and said that this was why he stopped the vehicle.
- [28] Constable Graham directed Mr Wilmot, who was travelling in the middle lane, to stop and then pull over to the left. The Mazda stopped in the middle lane. According to Graham, Mr Wilmot said he had committed no offence, moved into the left lane,

but failed to stop; instead, he continued driving at the speed limit. Graham believed Mr Wilmot did not intend to stop, so he and Constable Dunkley pursued him.

[29] At the gas station, Constable Graham said that he repeatedly asked Mr Wilmot for his driver's licence and vehicle documents. According to him, Mr Wilmot refused his several requests and began talking on his cell phone. Graham reminded him that section 20 of the Road Traffic Act ("RTA") required a driver to produce his licence so that the police could check whether he was licensed and complying with the law.

[30] A database check by Constable Graham showed that the Mazda's official colour was recorded as red on the registration and as green on the certificate of fitness. The vehicle in front of him appeared green with red streaks. Mr Wilmot was told that this did not match the official records and that an offence had been committed. Constable Graham told Mr Wilmot that section 13 provided that the vehicle could be seized. Mr Wilmot did not comply, so Sergeant Dawkins was asked to assist.

[31] Constable Graham said that Sergeant Dawkins arrived and, after a lengthy discussion with Mr Wilmot, he finally handed over his driver's licence but not the vehicle documents. He attempted to show the police his cell phone, which Mr Wilmot said contained photographs of the certificates of registration and fitness. The police declined to look at Mr Wilmot's cell phone and demanded the originals, which were not produced. Tickets were then issued, and the Mazda was seized and taken to the impound lot.

[32] In cross-examination, Constable Graham maintained that the front registration plate was not clearly visible from the prescribed distance of twenty metres. He denied that he could not see it simply because other vehicles were travelling in front of the Mazda.

[33] He admitted that no ticket was issued for plate visibility. He had not scanned the registration plate before the stop, even though he had an electronic device capable of doing so. He also admitted that, before the stop, he was unaware of the colour

mismatch and had no way of knowing from the database what colour was recorded for the Mazda, as he had not yet checked it.

[34] Constable Graham admitted that Mr Wilmot moved into the left lane and continued driving away at the speed limit. He disagreed with the suggestion that he stopped Mr Wilmot to inspect the vehicle documents simply because the Mazda resembled a race car.

[35] It was suggested that when he stopped Mr. Wilmot in the middle of the road, he did not provide a reason for the stop or specify the traffic offence Mr. Wilmot had committed because Constable Graham was not aware of any offence at that time. Constable Graham said he directed Mr Wilmot to move left so traffic would not be obstructed, but Mr Wilmot immediately said he had committed no offence and continued driving.

[36] Constable Graham said he did not have an opportunity to explain the reason for the stop at that point, as he was standing in the middle of the road where he had stopped Mr Wilmot. He told Mr Wilmot later that he had been stopped because the front plate was not clearly visible. Constable Graham admitted he did not attend Traffic Court on the dates the tickets were listed for hearing and did not prepare a statement for those proceedings.

Sergeant Desmore Dawkins

[37] Sergeant Desmore Dawkins filed affidavits on 20 May and 5 September 2025 and was cross-examined. He said that on 19 March 2024, while working with Constables Graham and Dunkley at a speed-enforcement and vehicular checkpoint on Washington Boulevard, he saw Constable Graham stop a green Mazda, registration number 9396KS, travelling in the middle lane.

[38] He said the Mazda appeared to be a racing vehicle that would not normally be licensed or driven on the road. He also thought it looked exactly like a vehicle he had stopped approximately three weeks earlier. At that earlier stop, the driver had

explained that the Mazda's colour had been changed but that its documents had not yet been amended. Sergeant Dawkins had pointed out that the vehicle was being used while its colour did not match the colour stated in its licence records. He warned the driver to park the Mazda until the records were corrected but allowed him to drive away.

- [39]** On 19 March 2024, Sergeant Dawkins saw the Mazda stop in the middle lane and saw Constable Graham approach and speak to the driver. The Mazda then moved away and Constables Graham and Dunkley followed. Sergeant Dawkins said he was called to the gas station and was briefed by Constable Graham that he had repeatedly requested identification from the driver and that the requests had been refused while the driver talked on his cell phone.
- [40]** Sergeant Dawkins said that he approached the driver and recognised Mr Wilmot from the earlier stop. He explained sections 7, 20 and 91 of the RTA and told Mr Wilmot that section 13 permitted seizure because the colour change had not been reflected in the official records. After extensive discussion, Mr Wilmot handed his driver's licence to Constable Graham. Mr Wilmot had no vehicle documents, and the police did not look at his cell phone for what were purportedly the vehicle documents. The tickets were issued, and the Mazda was seized.
- [41]** Sergeant Dawkins said that Mr Wilmot's continued use of the Mazda after the earlier warning influenced the decision to seize it. He testified that Mr Wilmot had already been stopped on two previous occasions and informed about the problem, had been advised to park the vehicle until the colour was corrected, and had nevertheless continued to drive it. The police had not seized the Mazda on those earlier occasions.
- [42]** Later that week, while Sergeant Dawkins was at Traffic Headquarters, an attorney for Mr Wilmot served a written demand for release of the Mazda on the Superintendent. Sergeant Dawkins told the lawyer that the traffic matters had been placed before the Traffic Court. Sergeant Dawkins had no responsibility for the

Mazda after it reached the impound lot and knew nothing about how it was stored or when the decision was made to release it.

- [43] In cross-examination, Sergeant Dawkins said that traffic was moderate and there were not many vehicles. He admitted that vehicles were travelling immediately in front of the Mazda and to its left. He said that the front registration plate was mounted at the extreme right of the Mazda and maintained that it was not readily visible from at least twenty metres.
- [44] Sergeant Dawkins admitted that Mr Wilmot was not speeding. He did not see another driving offence before the stop. No ticket was issued for the plate's visibility. He also admitted that Mr Wilmot was not told of any offences that were observed before the police stopped him, and he agreed that the failure to obey the constable's command occurred only after the initial stop.
- [45] Sergeant Dawkins stated he did not operate his electronic scanning device because he was already familiar with the Mazda from a previous encounter and was aware of the colour mismatch. He also said that Mr Wilmot attempted to show both himself and Constable Graham the vehicle documents on his phone.
- [46] Sergeant Dawkins said he knew the Mazda before that day and knew there had been a problem with its licence records about three weeks earlier. He could not speak to what Constable Graham knew.

The Law

Constitutional Redress

- [47] Section 19(1) of the Constitution permits a person to apply to the Supreme Court where a Charter right has been, is being or is likely to be breached.
- [48] The existence of another legal remedy does not automatically prevent a constitutional claim. Section 19(4) says that the Court may decline constitutional relief where another law provides adequate redress.

- [49] In **Brandt v Commissioner of Police**,³ applying **Attorney General of Trinidad and Tobago v Ramanoop**,⁴ the Privy Council explained that constitutional proceedings should not normally replace an adequate ordinary remedy. However, allegations of arbitrary State action may properly raise constitutional issues.
- [50] The constitutional and civil claims in this case were pleaded, defended and tried together as is permitted by the Civil Procedure Rules.

The Road Traffic Law in force in March 2024

- [51] Section 7(1) of the RTA, 2018 prohibited the use of a motor vehicle on a road unless it had a valid certificate of fitness, was registered and licensed, and had the required insurance. Section 7(2) required the driver to carry prescribed evidence of each of those four requirements and to produce it for inspection when a constable demanded it.
- [52] The Regulations explain what a motorist is required to have to prove those matters. Regulation 7(6) made a certificate of title evidence of registration and ownership. It also allowed a valid government identification document, together with the motor-vehicle licence certificate, (now amended to read registration certificate) to serve that purpose.⁵ Regulation 9 and Form B1 treated the licence certificate (now amended to read registration certificate) as evidence that the described vehicle was registered and licensed. Form B1 (defined as licence certificate and amended in 2025 to read, registration certificate) recorded, among other particulars, the registration number and colour.

³ [2021] UKPC 12

⁴ [2006] 1 AC 328

⁵ Amended by section 11 of Act No. 16 of 2025.

- [53]** Regulation 11 required the owner or driver to keep the certificate of fitness, the motor-vehicle licence certificate (the same as the registration certificate), and the insurance certificate or cover note, or certified copies, available for inspection.
- [54]** A photograph displayed on a telephone is neither an original nor a certified copy under the law in force in March 2024. The position is different now. The Road Traffic (Amendment) Act, 2025 removed the mandatory requirement to produce evidence of registration and fitness for inspection and facilitated electronic certificates. That later law was not in force at the time of these stops, and the Court cannot agree with Mr Wilmot that, based on the law as it now stands, he was entitled to show the police photographs on his phone in March 2024, when that law did not yet exist.
- [55]** Under the law which did apply, the police could demand proof of registration, fitness, licensing and insurance. That did not necessarily require that the registration certificate be kept in the vehicle, as the prescribed licence certificate (the certificate of title) could also prove registration. However, the law required that the originals or certified copies of these documents be carried in the vehicle and produced for inspection.
- [56]** Section 20(3) of the RTA required a person driving to have the relevant permit or driver's licence in the vehicle and to produce it, or prescribed evidence of it, when required by a uniformed constable or by a constable who produced identification. This distinguishes between a uniformed constable and one in plain clothes who must produce identification. The officers involved here were in uniform. Section 90 required the prescribed signal before changing direction. Section 91 required a driver to obey a direction given by a constable in the execution of his duty, including a direction to stop, remain stationary, slow down, pass on an indicated side or keep to a stated line of traffic.

- [57]** The words “in the execution of his duty” matter. A traffic stop must serve a genuine policing or traffic purpose. Section 91 does not permit an officer to stop a vehicle merely because it looks unusual or he is curious about it.
- [58]** Regulation 12 required the front and rear registration plates to be upright, conspicuous and clearly visible from at least twenty metres. Section 13(5)(a)(ii) addressed plates which were not affixed as required, were obscured or not easily distinguishable, or had unreadable characters. A plate may be attached yet fail the visibility requirement. An off-centre plate is not unlawful for that reason; however, it is required to meet the prescribed distance for clear visibility, which is twenty metres.
- [59]** Section 13(5)(a)(i) made it an offence to use a vehicle on a road contrary to the terms of its motor-vehicle licence. Regulation 8 required its colour to be recorded in the National Vehicle Register. As already noted, Form B1 included colour among the particulars describing the vehicle covered by the licence certificate.
- [60]** Regulation 17 addressed an alteration that rendered the particulars on the certificate of title and licence certificate inaccurate. It required the owner to take the vehicle immediately to the Island Traffic Authority for examination, obtain a certificate of fitness reflecting the amended particulars, and then apply for an amended title and a replacement licence certificate. The fitness certificate and licence certificate served different purposes. Correcting the first did not, by itself, correct the second. The owner must surrender the original certificates to amend the colour.
- [61]** These provisions mean that colour formed part of the description of the vehicle to which the licence applied. Driving a prominently green Mazda while its licence certificate still described it as red was a use contrary to the terms of the licence under section 13(5)(a)(i). This conclusion is based on the statutory framework and Mr Wilmot’s admissions, and not the result of the traffic ticket.

- [62] Section 13(6) provided that a vehicle used contrary to section 13(3), (4) or (5) was “liable to be seized” by a constable and kept in JCF custody until the requirements of the section were met. The expression made the vehicle subject to seizure; it did not require seizure in every eligible case. The constable has a discretion not to seize the vehicle. Any decision to seize has to serve the purpose of the RTA and comply with the Charter.
- [63] Section 13(8) placed a duty of care and protection on the JCF while the vehicle remained in its custody. Section 13(9) applied sections 95 and 96. Before the Traffic Court determined a charge involving the seized vehicle, section 96 allowed the owner to apply to the court for its release. That procedure alone did not automatically make all the days the vehicle was in custody lawful. The ongoing condition in section 13(6) remained extant and affected how long it would be held.
- [64] Section 120 provided for prescribed charges for removal and custody in the circumstances set out there and made those charges recoverable as a civil debt. A right to recover a debt is not the same as a right to retain property as security. Section 120 did not expressly create a right to possession nor does it grant a lien over the vehicle. Payment alone does not confer authority to continue holding the Mazda, the requirements of the section are a factor, along with all the circumstances.
- [65] The case of **Gary Hemans v The Attorney General of Jamaica**⁶ is also distinguishable as the stop was not based on an apparent or observed road traffic breach. It was based on the association of vehicles with theft or crime, together with an intention to check documents and search the vehicle and its occupants. The Court rejected the existence of a general power under the RTA to stop and search vehicles merely to investigate possible criminal activity. **Hemans** says traffic powers cannot justify arbitrary investigative stops or searches; they do not

⁶ [2013] JMSC Civ 75

preclude a stop based on an observed or reasonably suspected breach of the law. The power to stop is distinct from any power to search, to search the vehicle requires lawful justification. There was no search in this case.

The colour of the Mazda

- [66] The Mazda's certificate of fitness described its colour as green, while its registration and licensing particulars described it as red.
- [67] Section 13(5)(a)(i) of the RTA, read with regulations 8 and 17 of the Road Traffic Regulations, provides that colour forms part of the vehicle's registered particulars and that, where an alteration makes those particulars inaccurate, the owner must take immediate steps to have them corrected so that the National Vehicle Register remains accurate. Regulation 17 provides the process by which altered vehicle particulars are amended and the corrected particulars entered in the National Vehicle Register.
- [68] Non-compliance with these provisions has two legal consequences:
1. If the vehicle is being driven, it is being driven contrary to the terms of its motor-vehicle licence under section 13(5)(a)(i);
 2. Section 13(6) makes that vehicle liable to be seized by a constable and kept in police custody until the requirements of section 13 are met.

Analysis

The stop on 18 March 2024

- [69] Constable Anglin's reasons for stopping the Mazda could not be based on Sergeant Dawkins' earlier encounter with the Mazda as the Sergeant was not on duty with Constable Anglin that day. The stop could not have been based on the colour mismatch because, when he stopped the vehicle, he did not know about it. Those matters therefore cannot explain why he gave Mr Wilmot the direction to

stop. His decision must be judged only by the reason he says he had at the time which was that he saw Mr Wilmot change lanes without signalling.

[70] I accept Constable Anglin's evidence because it was specific, consistent and supported by what he said he did at the time. He identified the exact movement he observed, from the middle lane into the left lane without a signal, and explained that this was why he stopped the Mazda. He also said that he prepared a statement for the Traffic Court about what happened which Mr Wilmot did not seriously challenge in cross-examination.

[71] The later withdrawal of the ticket does not change this observation nor the reason he gave for the stop. The withdrawal of the ticket he issued did not decide whether Constable Anglin was telling the truth, and it does not tell this Court what was written in his statement. This Court must decide the issues from the evidence given by the witnesses in this trial. Having considered that evidence, I accept Constable Anglin's account that Mr Wilmot changed lanes without signalling. I therefore find that Constable Anglin had a lawful reason under the RTA to stop the Mazda on 18 March 2024.

The stop on 19 March 2024

[72] The stop on 19 March 2024 must be approached in the same way. The Court must ask what Constable Graham knew at the time he stopped the Mazda and why he stopped it.

[73] At that time, Constable Graham did not know about Sergeant Dawkins's earlier stop or the colour mismatch. He said he stopped the Mazda because he could not clearly see the front registration plate and it appeared to have no front bumper, he also said it resembled a race car.

[74] Sergeant Dawkins already knew the Mazda because he had stopped it approximately three weeks earlier. He recognised the distinctive green vehicle as

it approached. He also described it as resembling a vehicle used in racing that would not normally be licensed or driven on the road.

[75] Those descriptions show that the Mazda's appearance attracted the attention of both officers. They may have discussed the Mazda at some stage. If such a discussion occurred, however, there is nothing in the evidence of either officer at this trial to show that they discussed whether Constable Graham should stop the Mazda, or that Sergeant Dawkins told or encouraged him to do so.

[76] There is also no evidence that Sergeant Dawkins told Constable Graham about the earlier stop or the colour mismatch before Constable Graham decided to stop the vehicle. Constable Graham himself admitted that he did not know about the mismatch before the stop. Sergeant Dawkins's knowledge therefore cannot become Constable Graham's reason for stopping the Mazda. What matters is what Constable Graham himself knew and observed at the time.

[77] Constable Graham made two separate observations:

1. the Mazda appeared to have no front bumper,
2. and he could not clearly see the front registration plate.

The first drew his attention to the front of the vehicle; the second was the ground on which he said he stopped it.

[78] The appearance of the Mazda is accepted as being distinctive and the placement of the front plate was admittedly off centre. This means that it was not in the usual place. The ground for the stop relied on under the RTA by Constable Graham was the difficulty in seeing the front registration plate from the prescribed distance.

[79] The front plate was in fact present, and no ticket was issued for visibility. Constable Graham said he did not scan the plate before the stop, although he had an electronic scanning device capable of doing so. Other vehicles were travelling in front of and to the left of the Mazda and may have affected the view.

[80] Those matters weaken Constable Graham's evidence, but they do not establish that he invented his reason for the stop. Sergeant Dawkins also said the plate was difficult to see from at least twenty metres, and Mr Wilmot admitted that it was mounted at the extreme right of the front of the Mazda.

[81] An electronic scan could confirm the vehicle's registration details only after the plate number had been seen and read. It could not determine whether the plate itself was displayed in a way that made it clearly visible from the distance required by law. I therefore find that Constable Graham had a lawful reason under the RTA to stop the Mazda as was articulated.

What Does "Acting in the Execution of his Duty" in section 91 mean

[82] It means:

1. The constable must be engaging in a course of conduct designed to further a proper policing purpose see Lord Parker CJ in **Rice v Connolly**.⁷
2. He must act in good faith and attempt to achieve that purpose.
3. His conduct must be lawful.

[83] The scope of a constable's duty was considered in **R v Waterfield and Lynn**,⁸ where at page 47 Ashworth J said:

"In the judgment of this court it would be difficult...to reduce within specific limits the general terms in which the duties of police constables have been expressed. In most cases it is probably more convenient to consider what the police constable was actually doing and in particular whether such

⁷ [1966] 2 Q.B. 414

⁸ [1963] 48 Cr App R 42

conduct was prima facie an unlawful interference with a person's liberty or property."

- [84] By refusing to stop when directed to do so, the claimant gave Cst Graham reasonable grounds to suspect that Mr Wilmot intended to continue driving rather than stop. The failure to stop not only obstructed the flow of traffic but also led to a police pursuit, and the constable thereby acted in the execution of his duty to apprehend the fleeing Mr Wilmot.
- [85] Cst Graham had the discretion to choose which offences to prosecute and chose to prosecute all those previously discussed. The key question is whether his actions were reasonable and lawful at each stage. The Court finds that it was neither unreasonable nor unlawful for him to exercise his power under section 91 to stop Mr Wilmot for the reasons he gave. When Mr Wilmot stopped in the gas station, he had already failed to stop and disobeyed the constable's command to which he pleaded guilty. The Court finds it reasonable and lawful to warn him that refusing to produce his documents for inspection would constitute an offence. It was not unreasonable for Cst Graham to make such a demand because he genuinely believed the reason for the stop was valid and was acting in good faith.
- [86] At the gas station, Cst Graham told Mr Wilmot to comply or face arrest, and those words carried an express threat that an arrest would follow unless he complied. Whether that threat of arrest was reasonable would depend on whether any such arrest would be lawful in all the circumstances. No arrest was made, and the police's actions were limited to the less intrusive step of Cst Graham calling his Sergeant to the scene, who I accept had a lengthy discussion with the claimant.
- [87] Sections 7(2), 20(3) and 91, read with regulations 7, 9 and 11, provide lawful authority for the stop, as the constables were acting in the execution of their duty in relation to the earlier traffic stop, which had yet to be addressed. Those provisions authorised the demand for the driver's licence and the prescribed evidence of registration, fitness, driver's licence and insurance. The exercise of the

power was limited to a short stop for document inspection. It became a longer episode given all of the surrounding circumstances.

[88] The Court finds that, in exercising the power, the police required Mr Wilmot to stop and directed where he should do so. Section 91 of the RTA granted them that power, provided the constable is acting in the execution of his duty. If the direction to stop restricts a Charter right, the manner in which the power to stop a motorist was exercised must be justified.

[89] This means that every action the police took during these traffic stops must be both lawful and justified under the Charter. An issue raised is whether the constables in both stops were acting in the execution of their duty when they stopped the car on the respective dates. The Court examined the actions and intentions of the officers involved with the claimant for their constitutionality.

Whether the Charter rights were engaged

Freedom of movement

[90] The stops on 18 March 2024 and 19 March 2024 prevented Mr Wilmot from continuing his journey. His freedom of movement was therefore engaged.

Liberty

[91] On the facts of this case, the March 18, 2024 stop followed an unsignalled lane change. In my view, the constable acted with restraint, issued one ticket rather than two, and prepared a statement for court. The demand to inspect the documents was reasonable and lawful given the reason for the stop. The least intrusive measure was to issue one ticket rather than two and to allow Mr Wilmot to drive away without seizing the vehicle. The measure was proportionate, and the State has demonstrably justified the limitation on the right.

[92] On 19 March 2024, Mr Wilmot was required to remain at the gas station and was not free to leave. His right to liberty was therefore engaged. In **Shaquille Ashley**

v Clerk of Court, Saint Catherine and others,⁹ the Full Court explained that liberty and freedom of movement are separate rights although the same facts may engage both. It also made clear that detention must have a lawful basis.

[93] A compulsory traffic stop prevents a driver from continuing a journey and therefore affects freedom of movement. Detention means the person is required to remain and is not free to leave.

[94] The issue in relation to Mr Wilmot's detention at the gas station was whether the police had a proper legal reason under the RTA to detain him in the first place. Secondly, whether that detention ended once that traffic-related purpose was achieved.

Privacy

[95] The police required Mr Wilmot to produce prescribed driver and vehicle documents. That compulsory disclosure engaged a limited privacy interest. Privacy and protection from search are related but separate rights. Compelling a person to produce prescribed personal and vehicle documents may somewhat affect the privacy right. The purpose of requiring the documents was to verify compliance with the licensing, registration, fitness and insurance requirements of the RTA. Those demands were the means prescribed by law for proving those matters. The inspection was limited. The police requested only the records connected to the traffic inquiry. They declined the invitation to look at the cell phone and therefore could not be said to have inspected any unrelated communications or searched the contents of Mr Wilmot's cell phone.

[96] However, the State may require surrender of documents under certain circumstances set out in law, such as when a driver's licence is suspended. It is therefore could be said that the interference with privacy as prescribed by the RTA

⁹ [2025] JMFC Full 3

was limited and proportionate in all the circumstances. The claim for breach of the right to privacy fails.

Property

- [97] Section 15 of the Constitution protects property against compulsory possession or acquisition except as permitted by law and the Constitution. I therefore examine both the initial taking of the Mazda and the period for which it remained in police custody. The taking and continued detention of the Mazda deprived Mr Wilmot of its possession and use. This right was engaged by the seizure of the vehicle.

Protection from search

- [98] There was no evidence that the police searched Mr Wilmot, opened a bag or compartment, searched the Mazda or examined the contents of his telephone. There was no search of the person or the vehicle. Mr Wilmot went with the wrecker to the impound lot; there was no search. The claim for protection against search therefore fails at the first stage.
- [99] The right to protection from search was therefore not engaged on the evidence.

Life and security of the person

- [100] There was no evidence of a threat to Mr Wilmot's life or physical injury, or of any separate interference with his physical or psychological integrity beyond the detention and treatment already in evidence. Those rights were therefore not engaged on the evidence.

The Oakes analysis

- [101] Once a Charter right is engaged, the State must show that any limitation of that right is demonstrably justified in a free and democratic society. The fact that the RTA gave the police a statutory power is not, by itself, enough. The State must demonstrably justify the limitations on the rights to liberty, freedom of movement and property.

- [102] **Attorney General v Jamaican Bar Association**¹⁰ confirms that the burden of justification lies on the State. **Julian Robinson v Attorney General of Jamaica**¹¹ and **Dale Virgo v Board of Management of Kensington Primary School and others**¹² support the same proportionality approach.
- [103] The test requires the Court to consider four issues: whether the objective is sufficiently important; whether the measure is rationally connected to that objective; whether the objective could reasonably have been achieved by a less intrusive measure; and whether a fair balance was struck between the effect on Mr Wilmot and the public benefit.
- [104] The purpose of both stops was to enforce the road traffic laws. On 18 March 2024, the purpose was to investigate the lane change which Constable Anglin observed. On 19 March 2024, the purpose was to investigate whether the front registration plate was clearly visible as required by the RTA. Road safety and compliance with the RTA are sufficiently important objectives.
- [105] Each stop was rationally connected to its purpose. Constable Anglin could not investigate the observed lane change without requiring the Mazda to stop. Constable Graham could not determine whether the front plate was clearly visible from the prescribed distance without stopping the vehicle and examining how the plate was displayed.
- [106] The interference was minimal. On 18 March 2024, Constable Anglin addressed the signalling problem, reviewed the required documents, and permitted Mr Wilmot to depart. He was not unnecessarily detained, and the detention served only as a lawful traffic stop.

¹⁰ [2019] JMFC Full 04

¹¹ [2019] JMFC Full 04

¹² [2024] JMCA Civ 33

- [107] On 19 March 2024, the stop was directed to the visibility of the plate, and the traffic matters that followed were prolonged by Mr Wilmot's conduct in driving away and entering the gas station, thereby escalating the traffic stop into a police pursuit. All that followed concerned the RTA requirements for the driver's licence and vehicle documents to be produced when required for inspection by a uniformed constable. Mr Wilmot did not have the original or certified copies of the vehicle documents, and he was labouring under the misapprehension that the law allowed him to show pictures on his phone to the police; however, that was not the law at that time.
- [108] The encounter at the gas station lasted thirty minutes. That time included checking the vehicle documents, issuing the tickets, and having the wrecker arrive and tow the vehicle, which was not unreasonable in the circumstances of the original purpose for the stop.
- [109] The effect on Mr Wilmot was an interruption of his journey. Each stop arose from a specific traffic concern under the RTA and remained directed to that concern. I therefore find that the limits on freedom of movement caused by the stops were proportionate.

The detention on 19 March 2024

- [110] The purposes were to deal with the direction to pull left, obtain and check the prescribed documents, investigate the colour mismatch, issue the traffic tickets and arrange removal of the Mazda. Keeping Mr Wilmot present while those matters were dealt with was rationally connected to those purposes.
- [111] Mr Wilmot was entitled to call his attorney and ask the police why they had stopped him. Those acts cannot count against him and do not justify delay. However, speaking with his lawyer did not suspend his duty to obey a lawful direction and produce the prescribed documents. The delay at the gas station arose because Sgt Dawkins had to attend before Mr Wilmot complied.

- [112] After he attended, Sergeant Dawkins and Mr Wilmot had a lengthy discussion before he produced his driver's licence to Cst Graham. He had no other documents. All that time Mr Wilmot had no other vehicle documents. He gave no evidence about why he did not have them to this Court.
- [113] The entire gas station encounter lasted about thirty minutes. During that time, the police requested documents, checked the database, identified and discussed the traffic offences, allowed the phone call, issued four tickets, and arranged a wrecker. The evidence does not disclose any other period when the traffic stop had ended, but Mr Wilmot remained detained for a non-traffic-related purpose. Thirty minutes, in light of the situation, was within a reasonable range.
- [114] I have considered Mr Wilmot's evidence that he was insulted, told he was under arrest, and threatened with being pulled from the Mazda and locked up unless he produced the documents. The officers denied the key parts of that account. I do not need to decide every word that was spoken. Even if Mr Wilmot's account is taken at its highest, the restraint remained directed to the lawful traffic stop and did not become excessive in duration and there was no force or physical aspect to this encounter.
- [115] Discourtesy and threats are unprofessional, and neither police nor civilians need to escalate what the law requires into unnecessary discourse. As long as the police do not exceed the legal limits of their power under the RTA, their actions that day do not convert the restraint of Mr Wilmot into false imprisonment as the detention was not unlawful.
- [116] A complete restraint on these facts was lawful and proportionate. Section 14 was engaged on reasonable grounds and in accordance with fair procedures for investigating and preventing traffic violations. There was neither false imprisonment nor an unjustified deprivation of liberty or freedom of the person, as the State justified the restriction on the right.

[117] The same applies to freedom of movement. Enforcing a lawful traffic stop and all that followed were important objectives, and the restraint was rationally connected to them. The traffic purpose was focused, with no unrelated or extraneous searches of the vehicle or the claimant's person, and the period of time was limited and within a reasonable range given the factual circumstances. The public benefit outweighed the temporary interruption of Mr Wilmot's journey.

[118] The evidence is that the encounter lasted about thirty minutes and that the officers were still carrying out traffic work during that period. There is no evidence that the traffic duty had ended and that Mr Wilmot was being held.

[119] The effect on Mr Wilmot was greater than the interruption caused by the initial stop because he was not free to leave. I have also taken into account his evidence about the words used to him. Even so, the detention remained connected to the traffic enquiry, was limited in duration and was not shown to have continued after the lawful purpose ended. I therefore find that the interference with liberty and freedom of movement was proportionate.

Seizure

[120] The initial seizure of the Mazda and its subsequent detention were distinct acts, although both arose under the RTA. Section 13(6) authorised police custody while the relevant requirements of section 13 remained unmet, and regulation 17 prescribed the process for correcting altered vehicle particulars. The Court must therefore distinguish between what is proved, what may reasonably be inferred, and what remains uncertain because evidence of custody and release is absent.

[121] The evidence establishes that:

- a. the Mazda was seized from Mr Wilmot on 19 March 2024;
- b. the ticket issued on 18 March 2024 recorded the colour mismatch relied on at seizure;

- c. Sergeant Dawkins warned Mr Wilmot not to use the Mazda until the records were corrected;
- d. Mr Wilmot continued to drive it;
- e. Constable Anglin issued a ticket concerning the mismatch;
- f. The mismatch was observed again when the Mazda was seized on 19 March 2024;
- g. it remained recorded or treated as unresolved on 20 March 2024 and through 26 March 2024; and
- h. there is no evidence that Mr Wilmot completed the regulation 17 process or otherwise corrected the relevant registration and licensing particulars before 26 March 2024.

[122] Those facts establish the seizure and the ongoing unresolved colour mismatch.

[123] The previous warning and ticket did not secure compliance. It is therefore reasonable to infer that the seizure was intended to prevent continued use of the Mazda while the mismatch remained unresolved. This inference is based on evidence from Sgt Dawkins who said the decision to tow the vehicle was influenced by the previous failures at securing compliance.

[124] The unresolved mismatch, the absence of evidence that the records were corrected and the continued treatment of the Mazda as non-compliant support the inference that the relevant requirements of section 13, read with the regulation 17, remained unsatisfied through to the release date of 26 March 2024. On that basis, and having regard to the statutory scheme, detention may reasonably be inferred to have remained legally justified up to that date.

[125] That inference is limited, as in the absence of any evidence from the defendants on the elements of custody, to show the Mazda's condition, the JCF's record-

keeping of vehicles in its custody and its status on each date has been given to the Court.

- [126] Proof of the original seizure does not, without more, prove continued detention. Equally, the absence of custody records does not prove that the Mazda was released.
- [127] The relevant statutory objectives were to secure compliance with section 13 and regulation 17, maintain accurate vehicle records and prevent use of a vehicle whose actual colour did not match its registration and licensing particulars.
- [128] It is directly proved that Mr Wilmot lost possession and use of the Mazda and incurred towing and storage charges, but he did not lose ownership through forfeiture or transfer to the State.
- [129] Detention was rationally connected to the statutory objectives because removing the Mazda from use prevented Mr Wilmot from continuing to drive it while the mismatch remained unresolved. The earlier warning and ticket, neither of which secured compliance, support the inference that detention was proportionate while Mr Wilmot insisted on breaking the law.
- [130] I thus conclude that the initial seizure was justified and that detention remained proportionate until 26 March 2024. This conclusion is partly based on an inference drawn from the established facts. The defendants led no evidence confirming the Mazda's precise location or custody status during the entire period. No custody log or review record was produced, no officer responsible for storage or release testified, and Sergeant Dawkins had no knowledge of the storage or release arrangements.

Detinue

- [131] Mr Wilmot's attorney demanded the return of the Mazda on 20 March 2024. The demand established that he wanted the vehicle returned, but it did not establish that the statutory reason for keeping it had ended. At that time there was no

evidence that the regulation 17 process had been completed, that the registration and licensing particulars had been corrected, or that the Mazda had otherwise been brought into compliance with the RTA.

[132] I place little weight on the hearsay statement that processing would take five to seven days, nor accept it as proof that that was the standard processing period or that it was lawful. The detainee claim fails for the narrower reason that Mr Wilmot did not prove an immediate right to possession on 20 March 2024, and there was no evidence of a later demand before the Mazda was made available.

[133] Alternatively, even if the demand placed an evidential burden on the defendants, there had been no compliance on the only date of the demand. Coupled with section 13(6), the defendants had a lawful excuse on 20 March 2024. The evidence does not disclose any later date at which that lawful excuse ended. There is also no evidence that the JCF continued to refuse delivery.

[134] The State had no evidence on this aspect of the claim, but the lack of evidence does not mean that Mr Wilmot had demonstrated that, before 26 March 2024, the necessary conditions of section 13 had been satisfied in order for him to regain possession. As a result, the detainee claim is unsuccessful.

Towing and storage fees

[135] Mr Wilmot proved that he paid \$12,000.00 to the wrecker on 22 March 2024 and \$14,400.00 to the Transport Authority for storage. Those payments are not disputed.

[136] Section 120 deals with money owed for towing and storage. It allows lawful charges to be recovered from the person responsible for the vehicle. That is different from detention of the vehicle. Detention concerns whether the police still have a lawful reason under the RTA to keep the vehicle in their custody. So, even if towing or storage charges are lawfully owed, section 120 does not grant a separate legal power to detain the vehicle until those charges are paid. If the JCF

had refused to return the Mazda simply because Mr Wilmot would not pay, they would have needed a legal reason for that refusal; there was no such evidence in this case.

[137] I therefore make no finding that the Mazda could lawfully be detained merely because towing or storage charges remained unpaid until 26 March 2024. It is also unnecessary to decide whether the amounts charged were correctly calculated. Mr Wilmot did not prove that those payments resulted from an unlawful seizure, unlawful continued custody or another legal wrong established in this case. Those sums are therefore not recoverable as special damages.

Conversion

[138] Mr Wilmot also claims in conversion. Conversion requires an intentional dealing with another person's property which is inconsistent with that person's right to possess it. There was no evidence that any State officer used, sold, altered, destroyed or claimed ownership of the Mazda. There was also no allegation that it was physically damaged. No intentional dealing with the Mazda inconsistent with Mr Wilmot's right to possess it was proved. The claim in conversion therefore fails.

[139] For the reasons set out in the Oakes analysis, the taking and continued detention of the Mazda engaged Mr Wilmot's property rights, but the State justified that interference. The constitutional property claim therefore fails.

Damages

[140] Because Mr Wilmot has not proved a civil wrong or breach of the Charter, there is no basis for compensatory, constitutional, aggravated or exemplary damages.

[141] Mr Wilmot also claimed \$80,000.00 for loss of use, calculated at \$10,000.00 per day for eight days. He did not explain how he arrived at the figure of \$10,000.00 per day. He produced no earnings records, no evidence that the Mazda earned income, no receipts for replacement transport and no other evidence from which the Court could calculate that amount.

[142] Mr Wilmot said that he was embarrassed because passing motorists appeared to photograph or record him and the Mazda. There was no evidence that the police arranged or encouraged any recording or publication. Mr Wilmot's embarrassment does not create a separate right to damages in the absence of a proved civil wrong or Charter breach.

Orders

[143] The court makes the following orders:

1. Judgment is entered for the Attorney General of Jamaica.
2. The claim is dismissed.
3. No order is made against the Jamaica Constabulary Force.
4. There shall be no order as to costs.

Wint-Blair, J