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THE SUPREME COURT OF

WESTERN AUSTRALIA

SJA 1029 of 2024

DAWN MICHELLE KELLY

and

WESTERN AUSTRALIA POLICE

and

TRENT BANNER

WHITBY J

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 10 OCTOBER 2024, AT 10.44 AM

MS D.M. KELLY appeared in person.

MR C. MAYNE appeared for the respondent.

THE ASSOCIATE: In the Supreme Court of Western Australia, calling SJA/1029 of 2024, Kelly v The WA Police.

WHITBY J: Yes. I will hear from the appellant first.

KELLY, MS: Thank you. I'm requesting a support - somebody as support. Just feeling quite a little bit nervous today.

WHITBY J: All right. First of all, how would you like to be addressed?

KELLY, MS: Dawn, thank you.

WHITBY J: All right. You can have someone sit behind you, just with the solicitors.

KELLY, MS: Thank you. Neil doesn't have to be - he's outside. Can someone grab him, please. So, obviously, clearly not supportive at the moment.

WHITBY J: No.

KELLY, MS: Can somebody sit until he gets here?

WHITBY J: All right. Thank you, Dawn. You can have a seat. Yes.

MAYNE, MR: Mayne, I appear for the respondent.

WHITBY J: Thank you, Mr Mayne. I will just wait till you have somebody there, if you like.

KELLY, MS: Could I ask you - - -

WHITBY J: Yes.

KELLY, MS: You mentioned that it's the WA Police.

WHITBY J: Yes.

KELLY, MS: But it's - I'm confused with the - who's here. For example, it was listed as Kelly versus Banner.

WHITBY J: Yes.

KELLY, MS: And so is it Kelly versus Banner or is it the WA Police?

WHITBY J: It's the WA Police.

KELLY, MS: Okay. Also, is this a civil matter or is it a criminal matter?

WHITBY J: This is a criminal matter.

KELLY, MS: Because it's listed as civil, that's why I'm asking.

WHITBY J: It doesn't matter, though.

KELLY, MS: It doesn't matter.

WHITBY J: No. All right. You want to read some affidavits. Dawn, you have one affidavit that you've sworn on 20 September 2024. So that's just a support person, all right, so they can't speak to the court. You were self-represented.

KELLY, MS: Yes.

WHITBY J: Just to make that clear.

KELLY, MS: Just clarifying - - -

WHITBY J: I'm referring to the materials that I have before me.

KELLY, MS: Just clarifying, because it's WA police - - -

WHITBY J: I'm not going to answer all of these questions, Dawn. We need to get on to the matter.

KELLY, MS: It's just about its liability.

WHITBY J: So, you have an affidavit sworn on 20 September 2024. I have that.

KELLY, MS: Yes.

WHITBY J: I have your submissions, and list of authorities dated 23 May 2024. Those are the materials that I have in support of your appeal today. All right. I will hear from you, Dawn.

KELLY, MS: We make this application to the court, afforded as a matter of right by jurisdiction of the Supreme Court Act of 1935, by operations of section 16 and 23 to the ordinance of 1861, and the exercise of the Crown jurisdiction by the judges in England at that time. This

jurisdiction is reflected by the successive letters patents for Governor's Office of Western Australia. This jurisdiction, in this court, so composed, exercise the King's justice accordingly. I will repeat that, is this court so composed to exercise the King's justice accordingly?

WHITBY J: I'm not here to answer your questions, Dawn. I will ask you to continue.

KELLY, MS: So you're in agreement. With regard to Magistrate's Court, by operations of the Magistrates Court Act of 2004, from which my matter arose, it is my understanding that the court practices a pretended jurisdiction under the pretended Crown, illegal and criminal in nature. In oppression and denial of my political rights to availability of His Majesty's justice and mercy for Western Australia within the Commonwealth, a jurisdiction established in 1900 which, by right, is current law.

The intention of assortment of Acts of the Australian Parliament, in 1973, in denying the power of the Commonwealth and Crown by pretence of jurisdiction of another, the Australian Crown was intended to commit a criminal act against the people of Australia, in so much as exercising this pretended jurisdiction is a crime, Criminal Code 1913, section 44, whereby the acts of contempt amounts to sedition. It is not provided that the authority to apply justice in Western Australia begins with the Constitution 1900 UK, which provides the authority of the Crown, pursuant to the preamble covering clauses 2 and 5 of the Commonwealth of Australia Constitution Act 1900.

Is it not the authority of letters patent for Western Australia, issued by Her Majesty Queen Elizabeth II, Queen of the United Kingdom, at section 2, subsection (2) and (3), the Constitution Act 1889 requires the same Crown for the king and queen, in parliament and the governor's office to provide royal assent to bills of the parliament. On 14 May 2024, Stephen Heath, doing business as Chief Magistrate of Western Australia, he stated:

If the prosecution do not establish the necessary authorities to prosecute, then you will be found not guilty.

Under the pretended authorities, post-1973, there is no authority, and Dawn Michelle Kelly must be acquitted, and all convictions and sentences past, current and unfolding

be withdrawn. All financial impositions repugnant to the Commonwealth of Australia Constitution, section 95 and section 92 must be refunded, restored and duly compensated, as per our legal notices as tendered by evidence.

Memorials and excessive ongoing fines, court costs amounting to malicious prosecutions causing harm, creating trauma, anxiety, financial distress, loss of my home, my ability to work and support myself have been caused unlawfully, officers acting outside of the authority of their office, and I quote the Bill of Rights Act 1688. So, Officer Banner and Stuart Neeter did not have the necessary authority as public officers, and as police officers, pursuant to sections 8, 9 and 10 of the Road Traffic Administration Act, section 10 of the Police Act, the Oath of Office, and section 23 of the Public Sector Management Act. Therefore Dawn Michelle Kelly must be found not guilty and acquitted of all charges.

Officer Banner and Officer Neeter, as public officers, defined under the Criminal Code, do not have the necessary authority to administer and enforce statutory compliance breaches under the Road Traffic Administration Act, an Act to provide for the administration and enforcement of the Road Traffic Act 1974, the Road Traffic Authorisation to Drive Act 2008, the Road Traffic Vehicles Act 2012, and four other matters relating to road traffic.

For want of Queen in parliament, section 2 subsection (2), and want of royal assent, section 3 of the Constitution Act 1889. Dawn Michelle Kelly was charged with offences under the pretended Acts, the Road Traffic Administration Act 2008, the Road Traffic Vehicles Act and the Road Traffic Act of 1974. Take judicial notice of these four mentioned undenied points of law. Is there any reason not to deny these points? I ask you, is there any reason not to deny these points, your Honour.

WHITBY J: Please continue, Dawn.

KELLY, MS: And, for the third time, is there any reason not to disregard these points of law that affirms the authority of the Crown of the United Kingdom? The principle of legal application was acknowledged, and proven at trial, that Stuart Neeter and Trent Banner did not comply with statutory regulations as they did not have a delegation of authority in writing, and signed by the Department of Transport CEO or the Police Department CEO, Col Blanch, pursuant to section 8 subsection (1), subsection (2) and (3) of the Road Traffic Administration

Act. Forrest & Forrest Pty Ltd v Wilson HCA 30, section 62 states:

A statutory requirement that an administrative agency perform its functions in a manner consistent with the Australian's obligations under any convention. Public inconvenience would be a result of the invalidity of the Act, especially if those affected by non-compliance were neither responsible for, nor aware of the non-compliance.

Now, page 15 and 16 of the transcript states I subpoenaed documents from - this is for the trial - I subpoenaed documents under form 11, Trent Banner and the West Australian Police versus Dawn Michelle Kelly, and I requested information (1) the delegation of function certificate, issued by the CEO, pursuant to the Road Traffic Administration Act, section 8, delegation of CEOs function of Trent Banner, PD 16524, and Stuart Neeter, PD 136836, terms and conditions of agreement, pursuant to the Road Traffic Admin Act, section 11.

Now, I got a response back from legal service, the registrar, summons (indistinct) Legal Services, Jacob Orley. I refer to the attached witness summons to produce a record or a thing. The summons issued by Perth Magistrates Court, the Commissioner of Western Australian Police, the Commissioner, on 6 February 2024, in relation to the above aforementioned matter. The summons is returnable in the Perth Magistrates Court on 26 February 2024.

Upon the advice of the investigating officers, our office has confirmed that no documents are in existence in relation to items (1), (2), (3), no delegation or function in writing and signed by the CEO of the police Commissioner exists. Therefore, the question I have, what authority do you have to pull me over without a commissioner of a crime? There was no danger, I wasn't harming anyone, I wasn't needing your assistance, and you're purporting to enforce the policies of a Department of Transport without a delegation of function in writing and signed.

The CEO of the Department of Transport directly delegates authority to a public officer, pursuant to the Acts they are administering. Authority cannot be forward-delegated to anyone, including the CEO of police, section 9 subsection (3) of the Road Traffic Administration Act 2008, that states:

A person whom a power or duty is delegated under this section cannot delegate that power or duty.

Unless Col Blanch's name is on the prosecution notice, then the prosecution notice is in statutory non-compliance. Col Blanch, the CEO, cannot forward-delegate, pursuant to the Road Traffic Act 2008. Within the law of this pretended jurisdiction, even if a delegation of authority in writing, and signed by the CEO of police, which they do not have, it cannot be forward-delegated to an officer relating to statutory breaches in the Road Traffic Administration Act of 2008. It can only be delegated by the CEO of the Department of Transport.

Col Blanch's name was not on the prosecution notice as at prosecution. An FOI request was made, on 16 September 2024, to the West Australian Police Force Office of Information Management requesting information held by the WA Police, relating to a delegation of authority in writing, and signed by the CEO of the Department of Transport, pursuant to the Road Traffic Administration Act relating to Col Blanch - just one moment. Furthermore, all Acts post 1986 are references to policies not mine. An FOI request was made, investigating information held by the police, point (8):

In regard to your request regarding delegation of authority, the delegation of functions, signed by the CEO of the Department of Transport, I have been advised by the Commissioner's office that they do not hold these documents.

Neither the Department of Transport, nor the West Australian Police hold a delegation of authority, in writing and signed, pursuant to the pretended Road Traffic Administration Act of 2008, an absolute, not negotiable statutory requirement.

It is, what is good for the goose is good for the gander. No one is above the law. An erroneous interpretation of the Acts by Elizabeth Woods, doing business as deputy chief magistrate, stated that the officers did not need a delegation of authority under the pretended Road Traffic Administration Act because they were police officers. As police officers, pursuant to section 10 of the Police Act of 1892, their statutory requirement is their oath of office. Section 10 is clear:

No person shall be capable of holding any office, or appointment in the police force, or acting in any way

therein, until he shall have subscribed to the following engagement, namely, I, A.B., engage and promise that I will well and truly serve our Sovereign Lady, the Queen -

of the United Kingdom -

in the office of police Commissioner, inspector, sub-inspector and other officers or constables as the case may be, without favour or affection, malice or ill will, until I'm legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved, and that I will prevent, to the best of my power, all offences against the same; and that, while I shall continue to hold the said office, I will, to the best of my skill and knowledge, discharge all of the duties thereof faithfully according to law. And the said engagement shall be subscribed in the presence and attested -

I'll repeat that:

...attested by a Justice or commissioned police officer of the force.

So they have to prove that they have this commission. Section 5, Interpretation Act 1984, subsection (5) terms used in written law in this Act and every other written law. Her Majesty, His Majesty, King, Queen or Crown means Sovereign of the United Kingdom, which is the emblem above your head, your Honour, which is the original jurisdiction.

Section 10 of the Police Act 1892, oath of office to our Sovereign Lady, the Queen, attested by a Justice or commissioned officer, being the Queen of the United Kingdom, Royal Style and Titles Act of 1953, schedule, Elizabeth II, by the grace of God of the United Kingdom, Australia and her realms and territories, Queen, Head of the Commonwealth and Defender of the Faith.

Now, in 1973 the schedule was changed. Elizabeth II, by the grace of God of the Queen of Australia and her other realms and territories, Head of the Commonwealth, removed the United Kingdom and the grace of God with a stroke of a legislative pen, removing the United Kingdom and created a statutory office without a head of power, the Queen of Australia. Governors sworn to the Queen of Australia, without a head of power, any Act assented by a governor, under purported authority of the Queen of Australia, is null and void.

The Commonwealth of Australia Constitution Act, clause 2, an Act to amend the Queen's successors. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs, successors in the sovereignty of the United Kingdom. Commonwealth of Australia Constitution Act clause 5, operation of the constitution of laws:

This Act and all laws made by the parliament of the Commonwealth under the constitution shall be binding on the courts, the judges and the people of every State and every part of the Commonwealth, notwithstanding anything in the laws of the State. And the laws of the Commonwealth shall be enforced on all British ships -

etcetera. Royal assent is what grants authority to an Act. Kerry Sanderson assumed the office of Governor on 24 September 2014, swore an oath to the Queen of Australia, a statutory office with no head of power. Elizabeth II, by the grace of God, Queen of Australia and her realms and territories, head of the Commonwealth. In 2015 Kerry Sanderson, doing business as Governor of West Australia, gave pretended assent to the Road Traffic Administration Act of 2008, seven years after the Act was created.

Now, section 1, citation, the proclamation of the Road Traffic Administration Act, commencement proclamation 2015. Number (2) the commencement, other than (1) and (2), the Road Traffic Administration Act, other than sections (1) or (2), comes into operation on 27 April 2015. Now, this is interesting, by the wording of the proclamation of the Road Traffic Administration Act, including the Road Traffic Authorisation to Drive Act, the Road Traffic Vehicles Act, the Road Vehicles Taxing Act, the Road Traffic Amendment, Alcohol and Drug Related Offences 2011, and a long list of other Acts included under the umbrella of this Act.

So, other than (1) or (3) meaning of the Road Traffic Administration Act and all umbrella Acts are not in operation. Accused of being a pseudo-law enthusiast by the Supreme Court and Magistrates Court, it would appear, evidenced by the statute, that the court officers and public officers employed by the West Australian Government are in fact the pseudo-law enthusiasts, gaslighting those who shine the light on statutory fraud. We have not seen any case law establishing pseudo-law. It's an opinion only which has harmed me and my reputation.

Every West Australian police officer, who has sworn an oath post-1973, cannot be a duly sworn police officer under

the Police Act of 1892, section 10. Any Governor, post the Interpretation Act states that the definition of a Queen is the sovereign of the United Kingdom and not the Queen of Australia. Every West Australian police officer - all police officers must take a duly sworn oath in accordance to section 10 of the Police Act in the presence, and attested by justice or commissioned officer of the police - of the force.

The person administering the oath has to be under the same Crown as the oath that is required. No police officer is a duly sworn officer under a pretended authority. It is the statutory requirement that they must provide proof of this oath. Without this, not a police officer is - they're not a police officer defined under the Police Act and the Act says so. Without evidence of a duly sworn oath to a Sovereign Lady administered by the Crown, Trent Banner and Stuart Neeter are, at very best, employees of a corporate government department known as the West Australian Police with an ABN.

They are public officers enforcing corporate statutes, and must have a delegation of authority and function in writing by the CEO and signed. Section 23 of the Public Sector Management Act states:

The Commissioner may delegate to a person any power or duty of the Commissioner under the provision of this Act or any other Act.

Number (2):

A delegation under this section must be in writing and signed by the Commissioner.

Section (3):

A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

Section (4):

A person exercising or performing a power or duty that has been in accordance with the terms of the delegation unless the contrary is shown.

And number (5):

Nothing in this section limits the ability of the Commissioner to perform a function through an officer or agent.

Men and women - excuse me. Furthermore, the Commissioner or the Public Sector Management Act has no power because they have not been duly sworn. Men and women employed within the public sector umbrella, the West Australian Police, with an ABN, must comply with every pretended corporate statute with the very - sorry, with the very pretended corporate statutes that they claim to have the authority to enforce.

Col Blanch, the Commissioner, is the CEO. Section 4 subsection (1) subsection (3) of the corporatised police force, under the Public Sector Management of 1994. Col Blanch occupies the office of Commissioner and is the person holding the office of Public Sector Commissioner established by section 16 subsection (6) of the office of Public Sector Commissioner established by 16 subsection (1) of the Public Sector Management Act.

We've not been provided with evidence that Col Blanch has a delegation of authority in writing and signed by the Commissioner, Sharyn O'Neill, an absolute necessary fulfilment of a pretended statutory function establishing authority as a public officer. Col Blanch employs public officers in the same way that other public sector CEOs do, pursuant to the Public Sector Management Act in section 23 of that Act.

The public officers, Stuart Neeter and Trent Banner are no different than any public officer without a delegation of function in writing, and signed by the CEO of police, pursuant to the Public Sector Management Act section 23, subsections (1) and (2). Acting in the capacity of a public officer, they require delegation of authority, pursuant to the Public Sector Management Act, section 33, delegation by CEO or chief employees, Corporations Act 2001, section 189D, delegation, Corporations Act 2001, section 253, electronic record keeping of minute books, electronic record and keeping of minute books. Sorry I repeated that by accident.

Officers who allege they are police officers, pursuant to the Police Act of 1892, as stated by Elizabeth Woods, doing business as magistrate, have unfettered - they have unfettered powers to do whatever they want with no accountability. The police of Western Australia should - sorry, the people of Western Australia should be very

concerned. Terrorism, Extraordinary Powers Act 2005, Terrorism Preventative Detention Act 2006, Mandatory Testing of Infectious Diseases Act 2014, using corporate police security force to enforce government overreach during Covid.

And now the current misinformation bill being tabled in the federal Senate, legislation passed under a pretended jurisdiction, an extreme overreach of government that is harming the people of Western Australia, including myself. I have been harmed by non-compliance of legislation by politicians, police and judiciary acting outside of the authority of their office. The alleged crime in this matter was an administrative issue between Dawn Michelle Kelly and the Department of Transport, treated like a criminal, and slanderously labelled as a recidivist, as a result of asserting my rights in a commercial capacity.

No evidence has been provided by the Department of Transport proving there's a driver's licence contract in a Freedom of Information request made. On 16 September, an FOI letter was sent from Shalin Ferguson in response to an FOI request regarding the delegation of function signed and in writing by the CEO of Department of Transport, pursuant to section 8 of the Road Traffic Administration Act, for the following officers, Col Blanch PD 16640, Owen Feander PD 12894, Geoffrey Osborne PD 13302, Tegan Jenner-Nelson PD 15747, Susan Henderson PD 13444, Carl Webb PD 13759, Trent Banner PD 16524, Paul Inkster 16738, Stuart McRae PD 10770, Anthony Nuttall PD 13302 and Stephen Young PD 11557:

In regard to your request for the delegation of function -

signed and in writing by the CEO, the Department of Transport -

I've been advised by the Commissioner's office that they do not hold the documents you may wish to seek for the information regarding the Department of Transport.

So, they're asking me to apply to the Department of Transport, which I have and it doesn't exist. An FOI confirmed that the Department of Transport has no record of delegation of authority, pursuant to the Road Traffic Act 2008, section 8, section 9, section 10. The same FOI stated that there was no centralised records of oath of office taken by the aforementioned officers. You

Now, I bring you back to section 198D, delegation, and

section 253 electronic recording and keeping of minute books recording information. So, Trent Banner and Stuart Neeter, State security officers, members of an anti-terrorist squad, armed with an AR15 semi-automatic rifle, enforced alleged traffic breaches without the authority to do so, resulting in threats of violence, trespass, extortion, theft and deprivation of my liberty. This should be of grave concern to every Western Australian.

Trent Banner and Stuart Neater claim they had the authority to impose a duty, in a non-commercial activity, my constitutional right under section 92 of the Commonwealth of Australia Constitution, trade in the Commonwealth shall be free. Intercourse among States shall be absolutely free. Intercourse, defined as communication or dealings between individuals or groups, not sexual intercourse per se, just clearing that up.

However, the imposition of an unlawful duty, fine, registration and licence imposition, repugnant to section 92 of the constitution, pardon the pun, but - pardon the pun and the language, but we, the people, are getting f'd by the government, so that's the intercourse that I'm seeing as evidenced in my own self. Claiming a pretended authority to administer and enforce a pretended law, the Road Traffic Administration Act as public officers, an offer was made to verify their claim, as evidenced in affidavit sent and lodged as evidence in this matter.

They acted in dishonour and proceeded to prosecution belligerently, causing harm, loss and pain by way of their unlawful trespass. Employees of a security firm, carrying military grade weapons - weaponry, wearing bulletproof police branded costumes, driving police cars with vibrant police branding, marketing fear with sirens and lighting, armed and dangerous, impersonating du jour police officers under section 10 of the Police Act, designed to instil fear, purporting to be public officers without a delegation of authority, engaging in criminal activity - section 87 of the Criminal Code -without a delegation of authority in writing and signed by the CEO.

They're impersonating public officers. Men and women of Western Australia, who are forced to do business as persons, are classified as customers in the West Australian Police annual report of 2023. \$9,050,338.16 was spent on advertising, market research, polling and direct mail public sector commission annual report guidelines. This is funded by their customers, marketing to justify their services and unlawful revenue raising.

The role of a police officer is to keep and preserve His or Her Majesty's peace, without favour or affection, malice or ill will, according to the Police Act section 10. Now, the conflict of interest arises when police and magistrate, working together, interpret statutes to support a financial advantage for the State by way of a fine, penalty, repugnant to section 92 and section 92 - sorry, section 92 and 95 of the Commonwealth of Australia Constitution 1900 UK.

What law are we talking about? Pseudo-law? Pretended law? Asserting a jurisdiction that the Magistrates Court does not have. Acts, Amendment and Repeal Court Legal Practice Act, removing the Sovereign, the Crown, more than 62 times in all courts in Western Australia, bar the Magistrates Court because it didn't exist in the beginning. A court of pretended jurisdiction, gaslighting people, such as myself, who question jurisdiction and authority of the statutes.

This is every West Australian's right in a fiduciary capacity. Have we become a republic by stealth and subterfuge? The fabian labour government is doing their best to overthrow the monarchy, which is a crime of sedition and treason. Magistrates - now, let me talk about crime and treason. Okay. Criminal Code Compilation Acts 1913, Part 2, section 44, Seditious Intention:

An intention to effect any of the following purposes, that is to say, to bring the Sovereign into hatred or contempt, to excite disaffection against the Sovereign, or the government, or constitution of the United Kingdom, of the Commonwealth of Australia or West Australia, as established - as law established, or against either house of parliament of the United Kingdom, and the Commonwealth of Australia or Western Australia against the administration of justice.

(c):

To excite Her Majesty's subjects to attempt to procure the alteration of any matter of State law established otherwise.

Now, I stand under the correct coat of arms. Section 44, Acts to be excepted from section 44:

It is lawful for any person to endeavour, in good faith, to show that the sovereign has been mistaken in

any of her counsels, to point out, in good faith, a government or constitution of the United Kingdom, of the Commonwealth of Australia, or West Australia by law established, or in legislation, or administration of justice with a view of the reformation of such areas or defects -

which is what we're doing today, correct the record:

To excite, in good faith, Her Majesty's subjects, to attempt to procure, by lawful means, the alteration of any matter in this State such as established by law. To point out, in good faith, in order to their removal of any matters producing - to have a tendency to produce feelings of ill will and enmity between different classes of Her Majesty's subjects.

And this is what I'm doing today, in good faith and honour. Furthermore, we have an offer of evidence. We have the complete filing that has been lodged in the Privy Council of - the High Court, sorry, my mistake, High Court of justice - against the Chief Justice. Magistrates and Justices are also public officers, employed by a corporatised Department of Justice, ABN 70598519443. Criminal Code, section 1B also require a delegation of authority by a CEO, Director-General of Department of Justice, pursuant to section 23 of the Public Sector Management Act.

Without lawful statutory authority, what gives Stuart Neeter and Trent Banner the authority to steal private property, commit crimes of extortion, pursuant to section 396, 397 of the Criminal Code. 396 is demanding property with threats of intent to steal, which they actually did, demanding property with threats, intent to extort or gain, which they did and that was proven in court. To impose a duty by force and coercion through prosecution, reason being statutory breach, breach of clauses of a contract contrary to section 92 of the Constitution.

Without lawful statutory authority, Stuart Neeter and Trent Banner are privately liable for their actions. Stuart Neeter admitted to stealing my property, being a car registered on the PPSR to Dawn Michelle Kelly. Stuart Neeter stole my car. Section 371A Criminal Code Compilation Act, using a motor car without consent is stealing. Stuart Neeter and Trent Banner demanded property with threats to intent - to steal, section 398 of the Criminal Code Compilation Act.

Stuart Neeter and Trent Banner demanded property with threats to - intent to extort gain, in collaboration with Adrian Di Lallo of AAAC Towing, would not give me my car back until I paid their extortion and racketeering fees. I am the secured party creditor of this property. In 2022 the West Australian Police, in a similar situation, stole my car in an attempt to extort money from our estate. I refused to pay the AAAC Towing.

Police impounding unit sent a demand notice stating that unless I remove my car from the PPSR, they would crush it. They crushed it. Wilful damage of property, section 444 of the Criminal Code, criminal damage, damaging property. Here we go. The charges are immaterial in this matter. The prosecution notice is illegal. Magistrate Young, Woods - and Woods, including Musikanth J in Kelly v Fiander 275, in tandem, did not address the issues of the illegal, defective and fraudulent prosecution notice, lawful argument, that being the name on the prosecution notice is written in a foreign language, being American sign, pursuant to the Chicago styles 16th edition.

The prosecution notice is defective, written in a foreign language, being glosses in ASL, 11.147 glosses in ASL. The written language transcription of a sign is called gloss. Glosses are words from the spoken language written in small capital letters, woman, school, cat, etcetera. Alternatively, regular capital letters may be used. When two or more written words are used in gloss in a single sign, the glosses are separated by hyphens. The translation for sign, a drive by - vehicle drive by.

So, section 11, foreign language table. So, it's- essentially, this is saying that the name on the prosecution notice was written in a foreign language, repugnant to the King's English, which is, by all styles manuals, should be followed. Section 5 of the Criminal Appeal Regulation Act is defective and ambiguous. Section 5 in the Criminal Appeal Regulation states, in your pretended acts, when completing a form in schedule 1, the name of a party must be capitalised according to the preferences of the party. The family name of the party must be underlined.

Now, the examples they give contradicts what they're actually stating, which is ambiguous in itself. So, just saying that under the coat of arms, we're not referring to that. Criminal Procedure Regulations 2005, schedule 1, form 3, the description must comply with the CPA Schedule. The officer's form must be filled out in a foreign

language. This description must comply with the CPA schedule 1 and 4. Identity of the prosecutor, in accordance with the CPA schedule 1 and clause 3.

Magistrate Woods, under the Criminal Procedures Act, granted royal assent by the representatives of the Queen of Australia, not the Sovereign of the United Kingdom, as so defined in the Interpretations Act, had the authority to enter a plea on behalf of Dawn Michelle Kelly Estate Trust, administering her trust without consent, a breach of trust law, trespassing on the legal name, in deception and fraud, section 88 of the Criminal Code, also in breach of Crown copyright laws.

The West Australian Police cannot rely on a certificate if they are an interested party. Day v Savadge, S-a-v-a-d-g-e, 1614 HOB 85; 80 ER 235, unconscionable conduct, deceptive business practices. We sent Trent Banner and Stuart Neeter correspondence, a recognised administrative process of three notices, in the same way that the police used the fines enforcement three notice process, and it was ignored by both Magistrate Woods in trial, and Stuart Neeter and Trent Banner.

Do Stuart Neeter and Trent Banner, as police officers, public officers, agent of the Department of Transport, have the authority to impose a duty on Dawn Michelle Kelly, a subject of the Imperial Crown, the imposition of a fine by way of prosecution in commerce without a contractual agreement, repugnant to section 92 of the Commonwealth of Australia Constitution Act, trade within the Commonwealth to be free, absolutely free.

Intercourse between Stuart Neeter, Trent Banner and Dawn Michelle Kelly, intercourse meaning a conversation and exchange of ideas, being the first step of negotiation. An imposition by force into commerce, prosecution penalty without a valid lawful contract between the two parties. Section 95 of the Commonwealth of Australia Constitution Act, customs and duties of Western Australia, notwithstanding anything in this constitution, the parliament of the State of Western Australia, if that state be an original State, may, during the first five years after the imposition of uniform duties of the Commonwealth, impose duties of customs on goods passing into the State and not originally imported. Any duty so imposed on any goods shall not exceed, during the first of such years, of the duty between Western Australia.

Fraudulent concealment, which capacity does this court

proceed with us today, status living or status legal. What is the jurisdiction, civil or criminal, clearly it doesn't matter, or (indistinct) quasi-criminal performance of a contract, a statutory right in (indistinct) the statutory power of equitable decree in a maritime case. Section 10 of the respondent's submissions makes a reference to section 78, subsection (3) of the Criminal Procedures Act. If a written law creates a simple offence, breach of a statute, cause of a contract, and provides an exception in respect to the offence, the exception is to be taken not to apply unless the accused proves, on the balance of probabilities, that it does. The balance of probabilities. Civil claim versus beyond reasonable doubt, criminal charge.

Why is this matter deceptively classified as criminal yet listed as civil, CIV, SC/CIV/PER/SJA/1029/2024. Penhallow v Doane Administrators. In as much as every government is an artificial person, an abstraction, a creature of the mind only, a government can only interface with other artificial persons. The imaginary, having neither actuality or substance, is foreclosed from creating and attaining parity with the tangible.

The corporatisation of the living individual by way of the legal person, legal name, registration, succinctly defines the two separate statutes of an individual. First, the natural and, second, the legal person, illustrated in Penhallow v Doane Administrators, supported in framing within the Australian statutes, recognising the two. Privacy Act 1998 Commonwealth section 6, subsection (2), Corporations Act 2001 Commonwealth Part 1.5.52A, signing, subsection (1.8) directors section, signing and company documents, both possessing different legal requirements in fulfilment upon statutory identity recognition.

All government agencies have no parity with the living and if interface can only be by corporatisation, or un-incorporatisation of an individual's status identity upon registration, and only then can their fictional entity be applied to their status identity plural. This legal person's separate capacity status is, in effect, an incorporated company, in and of itself, being the individual's set identity status, fictional entity, applied in order for a government and its courts, being a constructed organisation government, in order to interface with a living individual.

Only like entities can interface with one another, corporate to corporate, company to company, having no

parity with one another, not corporate to living individual or incorporated company to living individuals, without a live and explicit executionable instrument of consent in commercial contracting, negotiated offer to contract. Final. Everything in commercial world is a negotiable step in contracting phase. Negotiation cannot be forced or imposed upon a natural living individual by implied consent.

The courts order in commerce, acting on behalf of the natural living individual, outside of a contract sealed in signature, ordering compliance of a corporate governance, absence of a legal - status legal, in exclusion and possession of the natural living individual. They're an executable authoritative instrument to contract with the court. They're signature for contract acceptance, sealed upon signing, and only given willingly.

The status legal of the natural living individual, or representative on the natural living individual by consent, that being that one of the same, and acting simultaneously in two different capacities becomes a trespass by the court upon the living individual's abrogated right to abstain to contract explicitly, and cannot be put by the court an imposition, applying an implied tacit obligation to fulfil an order on demand upon the natural individual, the court now sitting outside of commercial practice.

An agency of government implied contracting is unconscionable in a court of equity by a commercial agency. The natural living individual possesses exclusive right of choice how and when they interact, or interface with others in life, be they natural living individuals or incorporated companies and agency. It is a matter of willingness. In other words, no live contracts signed to corporate government. No compliance obligation in default of performance of a non-existent contract for corporate governance.

A matter of choice to interface without threat, malice or harm imposed upon us. Common law contracts. In this way, no - this is - no way diminishes the effect of common law contracts made out on a handshake by a verbal agreement, understanding or undertaking, including tacit procurement contracts implied or indicated by an act or by silence. It is not actually expressed or carried out on words or speech made in such conduct by acceptance, be it stated or not.

Following the precepts of common law is in no way to

be dismissed. As the appellant asserts, I am the executor of contracts for the natural private person. This lack of grasp to understanding a 228 year precedent, set in the law schools of Oxford and Cambridge, ongoing to the King's Bench to find themselves proceeding in admiralty REM jurisdiction under the legislature of New Hampshire founded in charter colonies.

Status living versus status legal. Legal name Dawn Michelle Kelly. Legal/corporate status, Dawn Michelle, living status, Kelly incorporated to do business with the corporate government by deception. Dawn Michelle, proper English, is the CEO of the Dawn Michelle Kelly corporate identity status, having many obligations that must be fulfilled by the office of CEO, chief executive officer. The legal person doing business name is treated as an organisation in different capacities.

The legal name is a doing business organisation that requires a signature to deal with contracts or execute documents. A signature is a lawful requirement to deal with contracts or execute documents. The prosecution notice must have a signature of two parties to validate a lawful contractual obligation in order to prosecute in a corporate capacity. A plea entered by a court without an executable instrument, unconscionable conduct, predatory business practice, the courts may have consent of the accused - must have consent of the accused, by way of plea, in order to proceed in prosecution. Plea, being the contractual agreement, must include the element of meeting of the minds, elements of a contract.

There is no definition of meaning plea in the Criminal Procedures Act section, 2024, Corporate Slavery Legislation, labelling of a criminal in a civil matter, summary offence, no victim identified. Magistrate and Justice erred in law, erred in judgment, erred in fact. The court established a contract with the appellant without authority. Commercial law applies in the authority to do something. No one else can act on the behalf of Dawn Michelle Kelly without a court order.

Magistrate Woods did not provide evidence of a court order giving them authority to enter a plea or conviction, prosecution notice, absent of a signature by a CEO, of the legal person, legal name Dawn Michelle Kelly, is the State of Western Australia operating under the Crown, within the Commonwealth, pursuant to the Commonwealth. For a State to exist, it requires the performance of the Commonwealth Constitution, section 106, if you remove the Constitution

of the Commonwealth you remove 106, and the State ceases to exist, reverting to colonies.

Magistrate Woods, in a pretended jurisdiction, did not act within the jurisdiction of the Crown, within the Commonwealth. Authority assumed by way of the statute cited, deficient of Crown in question in this matter. Magistrates Woods and her co-conspirators, under a pretended authority, harmed us and we seek remedy by way of compensation. The prosecution notice is a contract without authority, no living contract with the accused.

Every contract requires a wet ink signature. An officer of the business organisation executes the authority through the signature by agreement. Copyrighted, Dawn Michelle Kelly has exclusive rights, the absolute power to enter into any agreement or contract, not as an officer of the corporate entity organisation so created. No one can lawfully trespass on a corporate entity. This legal capacity can only be transferred by way of power of attorney signed and witnessed.

The all acts constitute a contract to be offered and accepted by way of legal instruments, pursuant to the Regulatory Powers (Standard Provisions Act) of 2014. These are the primary conditions for a contract to exist when accepted by both parties, and the elements of a contract offer an acceptance. Number (1) parties competent to contract, number (2) free and genuine consent, (3) full disclosure, (4) valuable consideration, (5) certainty of terms, (6) meeting of the mind, (7) signature or autograph, and number (8) privity of contract.

Now, the second part of my oral submission, I will be addressing the respondent's submissions. So A2, so it says the prosecution case at trial. We've got, section (b), Sergeant Neeter used the one force core application on his phone to check the vehicle's licence plate registration, but there was no match. As a result, the officers suspected that the driver might be committing an offence under a false registration plate.

Our response. On 18 January 2024, a notice to rescind and withdraw consent, implied or real, of non-existent contract between Dawn Michelle Kelly and the Department of Transport, Dawn Michelle for the Dawn Michelle Kelly Estate Trust, on disclosed information relating to the driver's licence 3539489 was sent to the CEO of the Department of Transport. Tracking number TMP1969000403008663731094, cc'd into the correspondence was the Police Minister, the CEO of

Police, so Rita Saffioti as well.

An FOI search was completed and no driver's license, and DOT notice regarding licence and contract for Dawn Michelle Kelly. So of the response, section (b) extension of time within which to appeal. An appeal cannot be commenced after 28 days after the decision unless the Supreme Court orders otherwise. This matter is in the interests of justice and public interest. Stuart Neeter and Trent Banner do not have the required authority to administer and enforce any law in Western Australia, as they claim to do so, without a correct oath of office, and the necessary delegation of authority as a public officer, signed and in writing by the CEO.

Now, in his point (8), in considering whether it's in the interest of justice to grant an extension of time, factors which may generally be considered are of the nature and extent of the delay. The grant of time must be allowed. Unconscionable conduct, taking advantage of a self-litigant who has the right to defend any claim made against them by another, *Blomley v Ryan* [1954] 99 CLR 362. Given the short time for which the extension is required, the respondent does not oppose, so he doesn't oppose the extension of time. Now for reasons - so number (12) of your response:

For reasons which follow, leave to appeal should be refused on the grounds the appeal should be dismissed with costs.

Now, we say otherwise. Case law, *Joose & Anor v The Australian Securities Investment Commission M35/1998* [1998] HCA trans 492, on 15 December 1998 states:

I make no order for costs as each arises out of a criminal or quasi-criminal matter. I certify for counsel.

Also, section (c) of the response, subsection (1) error in amending charges. The Road Traffic Admin Act and the Road Traffic Code 2000, absent of royal assent from the Sovereign of the Queen of the United Kingdom, a pretended pseudo law. Kerry Sanderson, government of West Australia, assumed the office of Governor of Western Australia, an oath taken to the Queen of Australia, gave pretended assent to these acts, which have not, under section 2 of the Road Traffic Administration Act, has been commenced.

This Act never received royal assent by definition of

the Interpretation Act of section 5. Furthermore, section - of the response submissions (c) grounds (1) and (2) error in amending charges, states magistrate erred in judgement. It was established that both Stuart Neeter and Officer Banner did not comply with statutory requirement of a delegation of authority, pursuant to (8) and (9) of the Road Traffic Administration Act.

Also, an FOI notice of decision, under section 30 of the Freedom of Information Act of 1992, dated 16 September, Shannon Ferguson, freedom of information officer, public access:

I have been advised by the Commissioner's office that they do not hold these documents, and you may wish to seek this information from the Department of Transport directly.

Which we did, and we determined that it doesn't exist:

Officers who do not have delegation of authority, pursuant to the Act, do not have authority as a public officer to administer this Act.

Forrest & Forrest Pty Ltd v Wilson [2017] HCA 13:

If a statute, sequential non-compliance of performance of function invalidates the statute, prescribes a mode of exercising that statutory power must be followed, and, if it is not followed, action taken in breach of it requires will be adjudged as beyond its power.

Section 118 of that case law:

Such attacks must be made, if at all, before grant.

We attempted to settle out of court, asking various compliance questions, to which the officers did not answer. Now, the response submission, section 14, the charges are immaterial if the officers have not complied with the statutory requirements. He - in response submission, section 16 of his response - of the State Solicitor's response, we say, section 132 states:

The powers in this section may be exercised by a court in relation to a charge at any time before trial.

This amendment was made after trial and does not apply. Response, section 18, it says:

It is further submitted that the appellant was given an opportunity to ask questions before the magistrate, before the decision to amend was made, and the appellant did not formally object.

Well, the magistrate delivered her decision a month after trial, a formal objection to a premeditated decision. The appellant, being a self-litigant, was not aware that this was an option, if this was actually the case. Section 23 of the State Solicitor's response:

The trial was conducted on the common basis that the allegation was a failure by the appellant to stop the vehicle when directed to do so by Sergeant Neeter.

If the prosecution don't establish any of the necessary authorities, then you will be found not guilty, which is at transcript page 3, lines 24 to 27, MC/CRI/PE/CRIM/8080/2024. Furthermore, section 27 of the State Solicitor's response:

The respondent submits that the magistrate was correct in finding that section 23 of the Road Traffic Administration Act directly conferred a power on Sergeant Neeter, a police officer, to direct the appellant to stop a vehicle for the purpose of investigating an offence under a road law. No delegation was required.

Non-compliance of a statutory requirement by a public officer voids the statute, *Forrest & Forrest v Wilson* HCA 30. In a corporate capacity, compliance applies to the officers enforcing the Road Traffic Administration Act. As public officers, they are granted authority through a CEO in a corporate capacity. The public at large cannot assume these officers have authority to trespass without verified proof of authority. A quo warranto was sent to Stuart Neeter and Trent Banner, and they were asked to provide their proof of claim of authority, acting dishonourably, proceeding to prosecution without verifying their authority as a sworn officer, under section 10 of the Police Act.

The appellant should be acquitted as the magistrate erred in opinion, erred in law and erred in fact, making up her own laws as she sees fit. Section - grounds error in entering not guilty pleas. Section 20 of the State Solicitor's response. The Magistrates Court failed to identify which status we were being dealt with, status living, the living man or woman in the common law, or status legal, the legal name, legal persons, ens legis,

Penhallow v Doane Administrators. Quoting that again:

In as much as every government is an artificial person, an abstraction and a creature of the mind only, a government can only interface with other artificial persons.

The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The corporatisation of a living individual by way of the legal person, legal name registration, succinctly two different statuses of individual, the first being the natural and the second is the legal person, illustrated in Penhallow v Doane, supported in the framing of the Australian statutes as mentioned earlier. So, section 29 of the State Solicitor's response.

The misguided opinion of the magistrate, justices and the State Solicitor, the three notice process and estoppel, lodged with the Supreme Court by way of service of affidavit, relate to the alternative disputes resolution process. Administrative law to seek resolution outside of the court process. Trent Banner, and Stuart Neeter and Adrian Di Lallo were sent correspondence, a noticing process, not unlike used by the department - Police Department and the Fines Enforcement Registry. Ignoring - and on their - just show you, on their notices:

Ignoring this notice will not make it go away.

So, again, misguided opinions - sorry, section 30 of the State Solicitor's submissions or response, the respondent submits to the ground, they have no basis in law and cannot succeed. I think otherwise. Again, the misguided opinions of the magistrates, justices and State Solicitors referring to pseudo law, a fictional term that does not exist at law, mere conjecture, subjective proposition created in the minds of individuals used to sidestep valid points of law raised by the appellant in Kelly v Fiander 187 and Kelly v Fiander in 275.

Defamation and discrimination used to control a narrative to uphold the control mechanisms of the courts. Unfair, biased interpretations of law, true purpose, to suppress our valid lawful defence, and hide the deception perpetuated in this court. Section 31 of the State Solicitor's response:

Failure to give full discovery, both timing and full disclosure, was denied the appellant.

Criminal Procedures Act - the pretended Criminal Procedures Act, section 61, under the Magistrates Court, disclosed by a prosecutor. Full disclosure, so section 5, subsection (e) (vi):

Full disclosure must be served within 28 days prior to trial.

Also, section 32 of the response:

Respondent's position is that disclosure of a witness statement and evidentiary matter upon trial was served upon the appellant.

Trent Banner failed to provide video footage requested by email. Section 33 of the State Solicitor's response:

The appellant did not seek to adjourn the trial.

The appellant currently has six cases in the Court of - one in the Court of Appeal, the Supreme Court, the Magistrates Court and the Family Court. I've now had to do another appeal, which has just consumed my whole life, harming me, full disclosure prejudiced by the defence relating to cross-examination of the officers on the stand. The video not provided was the pursuit video, with the conversations between the officers describing the accused as a sovereign citizen, a term used by police to describe domestic terrorists.

Trent Banner and Stuart Neeter worked for the State Security Group and carry an AR-15 deadly assault rifle or weapon. That's really scary for me. You've got these men and women running around without the authority to do so. Section 35 of the response - sorry, do you mind if I just - I've got a sore back.

WHITBY J: You can sit on the chair, if you like.

KELLY, MS: Yes. Can I do that? Thanks. Okay. So, we've got section 35. Appeal submission, section 6, magistrate denying the tendering of documents. The misguided opinion of the magistrate, justices and State Solicitor, the three notice process was ignored. Appeal submission, section (8) the magistrate was biased, adjudicator in favour of the prosecution over the accused, managing the trial pursuant to the prosecution's version of events.

Magistrate did not allow the defence to explore the legal authority by which the transport laws, pursuant to the charges, breach of statute and the accused is unlawful in regard to the accused being a private individual, of non-commercial capacity, on the King's road. Appeal point, section 9, the magistrate acted as lawyer for the accused, directing - sorry, not the accused, for the prosecution, directing the - actually, sorry, that's incorrect.

Appeal point section 9, magistrate acted as lawyer for the accused, directing the defence case from the bench. Abuse of judicial power prosecuting from the bench as well. Section 11, the magistrate was not an unbiased adjudicator, acting as the lawyer for the prosecution's case as well, stopping the witness from answering questions put to the witness during cross-examination. The magistrate cited Glenn Cash's paper "A Kind of Magic", omitting the buzzwords "OPCA litigant", sovereign citizen and pseudo-law.

The inference drawn implied conjecture to be one of the same. Page 6 of the reserve decision in transcript, given a month prior to - post-trial. Her Honour:

It became apparent that the accused was a person, in a group of people, who attempted to continually, and without success, and without legal training, to avoid the operation of laws which they do not want to comply with. This line of thought has emerged in the US and spread to a number of other locations across the world. Unfortunately, Australia has not been exempt from that, and primarily has been accessed by those who abide by it through the internet. The accused - - -

Excuse me, your Honour, we're not an OPCA litigant. Her Honour:

The points put largely were incoherent and incomprehensible.

Which I find very, very offensive:

Defence presented was without any merit, and totally misguided and ill-conceived. The accused took sections out of context and sought to apply them to her particular situation. In this jurisdiction -

or I should say, a pretended jurisdiction -

a human being is a legal person, an adult human being, with a capacity that can sue and be sued, and they are also subject to criminal laws of the State and so is she.

Now, I would like to bring your attention also to the affidavit submitted to this court and the State Solicitor. And I would like to just put here - I would like to say, we, Dawn Michelle, the living, breathing woman of soul, not a human being as defined in the James A. Ballantyne Law Dictionary, 1948 edition, "A monster who cannot be an heir to any land", who is the CEO of the business entity, legal name, legal person, Dawn Michelle Kelly, a self-litigant, right of audience, occupying the office of the legal person.

We refute all assumptions that the court may have about us. We also refute any false and damaging assertions, subjective propositions made by Supreme Court, Van Dongen, Musikanth JJ, of Western Australia, and also Magistrate Woods, Magistrate Young, Magistrate Shackleton, and other magistrates past, present, and unfolding, who label Dawn Michelle Kelly as a sovereign citizen, an OPC litigant, or a pseudo-law enthusiast.

We do not consent to being corporatised by trespass of the legal name Dawn Michelle Kelly, or Dawn Michelle KELLY, without our written and informed consent and a wet ink signature, Contract Trust Law, section 1.5.7, Corporations Act, Fair Trading Act, Competition and Consumer Act. You have a copy of this, so I will not continue with that. The State Solicitor's response, section 51, the information provided by an FOI and summons, conclusion, "No delegation of authority". Now, the State Solicitor's response, section 52. So, grounds - so he's saying:

These grounds can be construed as the contention that the magistrate erred in law, and incorrectly finding the accused did not have a reasonable excuse for failing to comply with Sergeant Neeter's direction, as provided in section 44 of the RTTA. The nature of the appellant's excuse appears to be that the appellant was fearful of sergeant when he approached the vehicle, and she drove away out of a flight response.

Justified, in response to protect property from a business entity who is known to steal cars and extort money. Furthermore, Acts passed after 1973, assented by the Queen of Australia, a statutory office absence of a head of power, pursuant to the Royal Style and Titles Act of 1973,

Interpretation Act, West Australia, defines the Crown as Her Majesty, His Majesty, Queen or King, Sovereign of the United Kingdom. Clause 2, an Act to extend the Queen's successors:

The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in sovereignty of the United Kingdom.

And clause 5 of the Commonwealth of Australia Constitution, operation of the constitution and laws:

This act and all laws made by parliament of the Commonwealth, under the Constitution, shall be binding on the courts and judges, and the people of every State, and every part of the Commonwealth.

Now, section 11 of the State Solicitor's response, assault, deprivation and liberty and contempt. The appellant - so he's saying that these grounds allege that the appellant was assaulted, deprived of her liberty and threatened with contempt at the conclusion of sentencing. Now, the appellant, deprived of her liberty, as a reserve decision, the male court security officer blocked the door to prevent me going - from leaving the room, upon conclusion of the reserve decision, to receive paperwork. A basic right to go to the bathroom was denied. Severely traumatised from this whole event, page 13 of the transcript of the reserve decision, 23.04.2024, her Honour:

Be quiet.

The accused:

I'm scared. My heart rate is going.

This is the court officer:

Okay. Fair enough. She has already been assaulted once in here.

Accused:

I have been assaulted by court staff before.

Her Honour:

Well, then just walk there. It's very simple. Okay. As soon as you go and get your paperwork, you can go.

Accused:

I need a comfort break.

You can't leave.

Accused:

You can visit the bathroom or the toilet any time you want to.

No, you can't leave.

Accused:

I need to go to the toilet. I have to go to the toilet. Please let me go to the toilet.

I've had children, I have a weak bladder. Enough said. Okay, JSO, "You have to". This is not the first time that Magistrate Woods has ordered the court security to assault me. I was physically forced into a box, and I find it incredibly traumatising to go into that court. Like, I kid you not, I'm just - that's why I'm shaking today. Section 60 of the State Solicitor's response:

The respondent submits there is no basis, on the evidence, that the transcript suggests any assault or deprivation of liberty.

I would like to see him being stopped from going to the toilet as not a deprivation of liberty and basic right:

Furthermore, the magistrate's warning regarding contempt was an appropriate response to the appellant refusing to comply with magistrate's directions in the courtroom.

No contempt of court in a corporate Magistrates Court, upon conclusion of the matter in a reserve decision, assaulted upon the direction of Magistrate Woods, by a female, and male court security officer, forced into a box. When asked what is the box, I was told it was punishment. We are currently receiving counselling by the court, which actually - we've actually withdrawn from the court intervention program because it was a conflict of interest because we - however, we will be seeking counselling from the trauma we've received there.

We've had meetings with the court intervention

program, so we are currently receiving counselling. This matter has severely impacted my mental health and has severely harmed me. Section 61 of the submissions, Magistrate Woods, by direction, insulted the appellant on a separate occasion where we were directly - I'm sorry, the cat again. I'm sorry. I'm so sorry. I thought my phone was off. Okay. Sorry.

Magistrate Woods, by direction - sorry, I'm laughing, it's not appropriate to laugh, because I'm - sorry. Okay. Sorry. We do not agree to -I've nearly finished, it's all good. We do not agree to costs in this matter. Trent Banner was in default, and could not prove that he was in compliance with the statutes that he was enforcing. *Forrest & Forrest Pty Ltd v Wilson* HCA 30.

When a system of government is changed from a constitutional foundation to one without a constitution, it is utterly bankrupt of authority, want of authority. The revolution of 1973 witnesses a change from the authority of the Commonwealth, the people of Australia, and the authority of the Australian government that has no reference in the constitution of the Commonwealth and is, to this day, without the approval of the voters.

Such government authority is not only a pretended, but illegal for the act of contempt to the Constitution and the sovereign of the parliament of the Commonwealth. I stand before here as a British national, with the protection of the Crown, under section 16 and 23 of the Supreme Court Act of 1935, entrenches the authority of the Crown.

Just in closing, all references to Federal statutes post-1973 are taken not to be relied upon by the appellant for the demonstration of federal policy of the pretended Australian parliament. All references to State statutes and regulations, post-1986, are taken not to be relied upon, but for policy of corporate government or parliament, that being a pretended - not of the office of Governor, under the letters patent, with no inference of the pretended laws were cast upon your Honour.

With reference, the totality of my statements, I believe that the prosecutor and State Solicitors have no authority to appear in a Crown Court for failure of disclosure of a pretended authority and power in commission of a crime of section 44 of the Criminal Code 1914. Without demonstration to the contrary, the opposing counsel may not be heard. Nature of standing, as a national of England, it is my understanding that the law of the United

Kingdom, and its protection, follows such nationals, especially where the Crown is entrenched, and most especially where valid law is unavailable, such as where pretended law usurps the law founded by the respective constitution of the Commonwealth and State.

I call for the disclosure of any competent - competing interest at play here today. Are you not so composed, and sitting under the notice in this courtroom, that of the royal coat of arms. Thank you.

WHITBY J: Thank you, Dawn. Yes. Mr Mayne.

MAYNE, MR: Thank your Honour. I will be as brief as I can. I think Ms Kelly has already taken you through the bulk of our submissions, so I'll just deal with a few issues. So, the first thing, the exception of time, we obviously don't oppose that. That is something for your Honour to consider in assessing the merits of the appeal. Ms Kelly also doesn't seem to advance any submissions about sentence, so I don't propose to deal with that, even though ostensibly it seems like that was on the appeal notice, but she's made no submissions to that effect. We would simply say the sentences aren't manifestly excessive.

The context of this appeal is four quite simple traffic offences. Ms Kelly was identified driving a vehicle with number plates that said "Private". Police officers, in their police vehicle, identified that, did a search of the system, identified that that wasn't registered. One of the officers, Sergeant Neeter, approached Ms Kelly's vehicle, indicated for Ms Kelly - directed her to stop her vehicle and pull over. She did not.

There was - police car followed Ms Kelly's car until the next intersection, and then eventually the car was stopped, and she was apprehended, and identified that she had no driver's licence, and her vehicle was unregistered. That all is on body worn camera footage. We say the evidence is overwhelming. It clearly establishes that the appellant committed the offences. During the trial, that evidence wasn't challenged really in any substantive way by the appellant.

She obviously made other arguments, but the factual core of the elements of the offences were not disputed or challenged. The extent of the appellant's case essentially was to bring similar arguments as your Honour has heard this morning, about delegation of authority and other

technical, we say, pseudo arguments. Importantly, the appellant did not establish a defence, and we say she has no defence. So that should be the context your Honour views this appeal.

We've attempted, in our submissions - there was, by our count, 23 grounds of appeal we could identify from her written submissions. We've attempted to categorise that to themes - 11 different themes, which are expressed in our submissions, which your Honour has been taken through. We say that leave to appeal should be refused on all grounds. I won't go through every theme because I think Ms Kelly - - -

WHITBY J: And I've read your submissions.

MAYNE, MR: You've had the benefit of my submissions. I will just supplement with a few points. Given Ms Kelly is unrepresented, turn to the amendment to the charge.

WHITBY J: Yes.

MAYNE, MR: I'm not sure if it was clear from the documents before your Honour, but the original prosecution notice, the written law for charge PE/55253 of '23, which is the failure to stop charge, in the written law section of the prosecution notice, filed originally to commence the prosecution, that referred to Regulation 2731(a)(i) of the Road Traffic Code.

WHITBY J: Yes.

MAYNE, MR: Instead of the correct reference, which her Honour later corrected at the - prior to the - - -

WHITBY J: Section 44 of - - -

MAYNE, MR: Yes. That's correct. That power, as the learned magistrate identified, was, the power that the learned magistrate used to amend was section 132, but there are a number of powers in section 132. And just for your Honour's benefit, subsection (3) of that section provides that a court, on the application of a prosecutor, that may amend a charge. There was no formal application by a prosecutor, so we say the more correct provision, the provision that was relied on was subsection (4) which is, without limiting subsection (3), a court may amend a charge to correct any variance between the charge and the evidence (indistinct) in support of it. We say that was the power that the learned magistrate used to amend the charge.

Now, there may be again, given Ms Kelly is unrepresented, a question about whether it was appropriate it for the court to do that at its own initiative. It seems that the magistrate just decided to do that, and there was a dialogue with the appellant prior to delivering the decision. What we would say about that is, section 132 subsection (2) provides that the powers in 132 can be exercised at the court's own initiative unless the contrary attention appears.

There may be an argument about contrary intention about subsection (3) but the power we're relying on is subsection (4) and we say there's no contrary intention that the court cannot use that power, where it is appropriate to do so, at its own initiative. Now, there may be circumstances where it would be inappropriate for the court to do that and act as a prosecutor, but, we say, in this instance, it was appropriate.

I will just refer your Honour, to one authority, which is mentioned in footnote 15 of our submissions for a different purpose, which is *Busby v Burrow* [2012] WASC 58, at paragraphs 87 to 88, where his Honour, essentially, in passing, I think, accepts that, in some cases, an amendment can be made without an application from the prosecutor, although should be in limited circumstances.

In this case, what the amendment was really was to correct an error, obviously, in the charge. But that was clearly an obvious error, and we say, as we've said in our submissions, the trial was conducted on the common basis that the allegation that the appellant was responding to was a failure by the appellant to comply with the direction of Sergeant Neeter to stop the vehicle. That was the evidence that was led, and that was the evidence that the appellant responded to.

The charge wording, which I can read, clearly refers to the power in which the direction was made, which is section 39 of the Road Traffic Administration Act. The charge wording is that the appellant drove a vehicle, namely a Suzuki Grand Vitara station sedan, registered number "Private", false plate, on a road, namely, Marmion Avenue, Karrinyup. And when given a direction by a police officer, in accordance with section 39 of the Road Traffic Administration Act 2008, to stop the vehicle, failed to comply with the direction.

The only offence provision that applies in that

circumstances is section 44 of the RTA - RTAA I should say. Therefore, the amendment raised no new issues and merely was correcting the charge to reflect what the prosecutor had always intended it to be, and bring into line the charge - the variance between the evidence and the charge. We say that was appropriate to do so.

Now, a further consideration, which it seems to be touched on with the focus of the appellant's ground of appeal relating to this, is the timing of the amendment. The appellant contends that the amendment was made after the trial. We have referred, in our written submissions, to some authorities where we say that the trial does not conclude until conviction is recorded. This amendment was made prior to that. But another issue, again, for the benefit of the appellant, is whether the procedural fairness provided by the magistrate in making that amendment was appropriate.

We say that the appellant was given an opportunity to ask questions of the learned magistrate before the decision was made, but I think we've had submissions this morning, the appellant, that she perhaps didn't know that she could object or that there was a misunderstanding, and perhaps there could be an argument that the magistrate could have done more to explain what was going on and what her options were. Even in that case, we don't say that that's fatal to the prosecution.

Not every departure of procedural fairness or natural justice, we say, will entitle a party to relief or a new trial; rather, the breach must be material in the sense that it could affect the results, and our submission is essentially that there's nothing really that the appellant could have said. Given the circumstances of being an obvious error and how the trial proceeded, there's nothing really the appellant could have said that would have resulted in a different decision. So we say that any failure to provide procedural fairness was not material and did amount to a miscarriage of justice.

But the related point is the prejudice to the appellant in making that and, again, we say the appellant's defence was not prejudiced by the amendment. Everyone thought the charge was a failure to stop by Sergeant Neeter's direction. It was never put by the appellant that the wrong section had applied, or she never sought to rely on the elements of that wrong regulation, which I understand the wrong regulation is something to do with a police officer already regulating traffic and then

requiring a vehicle to stop at his hand. That wasn't the way the defence was run.

Rather, the magistrate indicated at the start of the trial for the appellant to put any defence she had to the witnesses, and the defence she put was, again, the delegation of authority issues, but also she sought to establish an excuse for why she didn't comply with the direction, which was the fear and flight issue. So we say certainly her case was not run on the basis of the wrong section and, therefore, there's a strong inference that nothing would have been different had the right section been specified from the start. That's all the submission I intend to make on that issue, unless your Honour has questions, but I will just respond to a few - I will take as read the majority of our submissions.

It does seem to be in terms of theme 2, or rounds 4, 15, 16 and 17, which is the no written delegation point, that issue - a similar issue was dealt with in Kelly v Fiander [2024] WSC 275 from paragraphs 75 to 80, which is to do with a police officer's power to commence a prosecution as opposed to give a direction, but I would note that it seems like, from the submissions, that the issue may be now that the officers weren't, perhaps, police officers or something to that effect. That was not put to the witnesses at trial and certainly, in the transcript, the appellant referred to the witnesses as officers, and it didn't seem like that was the basis for the objection. It was just whether that they had a delegation.

So we say the power to direct, under the Act, is given to a police officer. That's enough for them to have power, and I will say about that. There is also a reference - I will move to theme 5, which is about the failure to give discovery. The first we have heard of an email asking for discovery was this morning, but it seems like, best as I could tell from the appellant's submissions, that she was asking for a video, perhaps, of the police vehicle during the pursuit. I would say that the body-worn camera footage of Sergeant Neeter was on when the pursuit was ongoing. So that evidence would be there.

But, in any event, there was reference to section 61 of the Criminal Procedure Act, which requires disclosure in certain specified circumstances, that is, where there's a listed simple offence, an either-way offence or an order for discovery. Reviewing the transcripts, we have not identified any order for discovery, so section 61, in our submission, doesn't apply, but we say disclosure was given.

We have not given evidence of that because there's no evidence in response, but that's something we could provide if it was material. Otherwise, your Honour, I think you've got the benefit of our written submissions and, unless Your Honour has any questions, those are my submissions.

WHITBY J: No. Thank you. Is there anything in response, Ms Kelly - Dawn? You don't have to repeat anything you've already said.

KELLY, MS: No, no. That's fine. Just clarifying, we have the same rights to drive a car, as did Queen Elizabeth. We have not - the State Solicitor has not demonstrated contrary to my statements for application of law acting in pretence and of violation of the Criminal Code section 44. The case was, was it - did you say, was it Busby? Okay. Was this case after, what year was that?

MAYNE, MR: Two thousand - I have a copy of it, if you would like.

KELLY, MS: Thank you. That would be nice. Thank you. So anything post-1986 is not really worth - cannot be given weight. And also, amendment to anything after '86 cannot be given for want - given weight for want of a valid - valid consent, and finally - royal assent, sorry - royal assent. A Crown court may not give weight of valid law if it has not received royal assent of the monarch identified by letters patent as required by section 2 subsection 2 of the Constitution Act of 1889 and otherwise prohibited by the same. Thank you.

WHITBY J: Thank you, Dawn. All right. I'm in a position to deliver my decision now, so I will read it out. On 23 April 2024, the appellant was convicted of four offences that occurred in Karnup on the 8 October 2023. Those four offences, and the sentence imposed for each, are: PE 55253 of 2023, fail to comply with a direction to stop contrary to section 44 of the *Road Traffic Administration Act* 2008, a fine of \$1000; PE 55254 of 2023, drove a vehicle with a forged replica of false plate on the road contrary to section 36(2)(e) of the *Road Traffic Administration Act*, a fine of \$400; PE 55255 of 2023, used an unlicensed vehicle on road contrary to section 4 subsection (2) of the *Road Traffic Vehicles Act* of 2012, fine of \$400 and half the annual licence fee amount, \$168.75; and PE 55256 of 2023, had no authority to drive contrary to sections 44(1)(a) and (3)(ca) of the *Road Traffic Act* of 1974, a fine of \$1500 and a licence disqualification of nine months cumulative.

The appellant was also ordered to pay costs of \$272.70.

The appellant seeks leave to appeal the convictions for the offences on multiple grounds. The appellant did not enter a plea to the charges in the Magistrates Court. The matter proceeded to trial on the basis that, pursuant to 126 of the *Criminal Procedure Act*, the court entered a plea of not guilty to each of the charges on behalf of the appellant. In order to prove each of the charges, the prosecution was required to prove the following elements of each of the offences.

In relation to PE 55253 of 2023, the appellant was driving a vehicle on a road. She was given a direction to stop, and she failed to stop. In relation to PE 55254 of 2023, the appellant was driving a vehicle on a road and the vehicle licence plate was not as issued. In relation to PE 55255 of 2023, the appellant used a vehicle on a road and no vehicle licence had been paid for that vehicle. In relation to PE 55256 of 2023, the appellant drove a vehicle on a road, and she was not authorised to drive as she did not hold a valid driver's licence.

At the outset of the trial, the magistrate explained the trial process to the appellant. At the trial, the prosecution called two police witnesses, Sergeant Stuart Neeter and First Class Constable Trent Banner. The police officers gave the following evidence at trial. At 12.30 pm on 8 October 2023, they were travelling southbound on Reid Highway in a marked police car when they noticed a white Suzuki Grand Vitara with black registration plates labelled "Private" and displaying what appeared to be a family crest.

Sergeant Neeter used the OneForce Core application on his phone to check the Suzuki's licence plate registration, but there was no match. As a result, they suspected that the driver might be committing an offence or using a false registration plate. Sergeant Neeter instructed Constable Banner, who was driving the police car, to activate the emergency lights and signal for the Suzuki to pull over. The pursuit continued on to Marmion Avenue, where the Suzuki was briefly held by another car waiting for traffic. Sergeant Neeter got out of the police car, approached the driver's side of the Suzuki, gestured with his hand and verbally directed the driver to pull over. However, the driver ignored the command and drove away onto Marmion Avenue.

The police officers followed the Suzuki in their

police car with emergency lights still on. The pursuit continued until the Suzuki was stopped in traffic at the junction of Marmion Avenue and Karnup Road. Sergeant Neeter got out of the police car again, approached the driver's side of the Suzuki, drew a baton and directed the driver to open the door. The driver lowered the window on the driver's side, allowing access to the car. Sergeant Neeter then opened the driver's side door, switched off the engine and took the keys.

The appellant identified herself as the driver. The appellant remained at the scene and recorded the police officer on her mobile phone while the Suzuki was seized and towed. Searches of licensing systems confirmed that the Suzuki was unregistered and that the appellant's driver's licence had been cancelled. The entire incident was captured on Sergeant Neeter's body-worn camera.

Two evidentiary certificates issued pursuant to section 110 of the RTAA were tendered through Constable Banner. By those certificates, the Department of Transport certified the numerous licence disqualifications that the appellant has received and confirmed that, as at the date of the offences, the appellant did not hold a valid driver's licence. Department of Transport also certified that the Suzuki, as at the date of the offences, was not a licensed vehicle.

The appellant did not give evidence at the trial and did not call any witnesses to give evidence. At the conclusion of the prosecution's case, the appellant summarised her case and the appellant relied upon the following matters in defence of the charges: firstly, that the police officers had no delegation under the RTAA to give the direction to stop; secondly, that there was no drivers licence contract that exists between the legal name Dawn Michelle Kelly and the legal woman who is the executor for the contracts of the same; and, thirdly, that the drivers licence and the prosecution notice were not in proper King's English pursuant to the Oxford Style Manual. During the course of the trial, the appellant also argued that her failure to stop was a result of fear of harm or flight response.

On 23 April 2024, the learned magistrate delivered her decision following trial. Prior to delivering her reasons, the magistrate amended charge PE 55253/2023 to refer to section 44 of the RTAA rather than regulation 273(1)(a)(i) of the *Road Traffic Code*. The magistrate indicated that she was amending the section reference pursuant to section

132 of the *Criminal Procedure Act*.

The magistrate then delivered her reasons, in which her Honour made findings of fact consistent with the evidence given by the police officers; determined that the appellant's cross-examination of the prosecution witnesses was ineffectual, largely irrelevant and did not raise a defence to the charges; found that there were no defects in the prosecution notice; found that the police officers were entitled to act as they did and did not require written delegation pursuant to the RTAA to direct the appellant to stop; found that the theories put forward by the appellant were without merit; found that the evidence of the prosecution was uncontested and the charges were proven; and entered judgments of conviction in relation to each of the offences.

The appellant's written submissions contain 23 grounds of appeal. Each ground of appeal falls within one of the following themes of appeal: firstly, grounds 1 and 2 allege that the magistrate erred in law in amending the charge PE 55253 of 2023 at the conclusion of the trial. Secondly, grounds 4, 15, 16 and 17 allege that Sergeant Neeter did not have the power to direct the appellant to stop the Suzuki. Thirdly, ground 5 alleges that the magistrate was in error in entering not guilty pleas for the charges; grounds 6 and 23 allege that the prosecution was estopped by legal notices and allege an error in identifying the appellant by reference to the appellant's driver's licence.

Ground 7 alleges that full discovery was not provided to the appellant; grounds 8, 9, 11 and 20 allege that the learned magistrate was biased; grounds 10 and 12 allege that the magistrate erred in prohibiting the prosecution's witnesses from answering some of the appellant's questions during cross-examination; ground 13 alleges that the magistrate erred in law by allowing exhibits G and H, being the Department of Transport evidentiary certificates, to be admitted into evidence.

Ground 14 alleges an error in relation to the court refusing to issue the summons sought by the appellant for the Commissioner of Police to attend the trial; grounds 18 and 19 allege that the magistrate erred in finding that the appellant had not established an excuse for disobeying Sergeant Neeter's direction to stop; and grounds 21, 22, and 24 allege proper conduct of the magistrate after sentencing on 23 April 2024.

Ground 1 is an introduction to the grounds of appeal and not a ground of appeal itself. This is the same as ground 27, which is a list of authorities. Grounds 25 and 26 are not properly grounds of appeal as the appellant seeks costs, damages and compensation from the respondent. The appellant relies upon her affidavit sworn on 20 September 2024 and the attachments thereto in support of her grounds of appeal.

I now turn to the legal principles relating to an appeal. Section 7(1) of the *Criminal Appeals Act* provides that a person who is aggrieved by a decision of a court of summary jurisdiction may appeal to the Supreme Court against that decision. A decision of a court of summary jurisdiction includes a decision to convict an accused of a charge. The grounds of appeal pursuant to section 7.1 may be that the court of summary jurisdiction made an error of law or fact, or of both law and fact, or that there has been a miscarriage of justice.

The appellant must obtain leave to appeal on each ground of appeal. If leave is not granted on at least one ground, the appeal is taken to have been dismissed. The court must not grant leave to appeal on a ground of appeal unless the court is satisfied that the ground has a reasonable prospect of succeeding. Even if a ground of appeal might be decided in favour of the appellant, the court may dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

In accordance with section 39 subsection (1) of the Act, the appeal court must decide the appeal on the evidence and material that was before the lower court. However, section 39(1) does not affect this court's power as contained in section 41E of the Act to admit any other evidence for the purposes of dealing with an appeal. An appeal cannot be commenced later than 28 days after the date of the decision unless the Supreme Court otherwise orders. As the appellant's notice of appeal was filed 30 days after the decision, the appellant requires an extension of time to commence the appeal. The court will grant an extension of time for appeal if it is in the interest of justice to do so.

In considering whether it is in the interests of justice to grant an extension of time, the factors which may generally be considered are the nature and extent of the delay, the reasons for the delay, the proposed grounds of appeal and their merits, the prejudice to the appellant if an extension of time is not granted and the prejudice,

if any, to the respondent if an extension of time is granted.

The appellant relies upon her affidavit sworn on 28 May 2024 in support of her application for an extension of time to appeal. The appellant deposes that she misjudged the time frame within which she was required to appeal due to immense stress she was experiencing because of several proceedings in which she was engaged as a self-litigant. Given the short time for which the extension is required, the respondent does not oppose the application for an extension of time. In all of the circumstances, I grant the appellant an extension of time to appeal.

I also take into account the fact that the appellant represented herself at the appeal hearing and at the trial. The considerations to be applied when dealing with litigants-in-person are set out in the case of *Tobin v Dodd [2004] WASCA 288*. I apply these principles when considering the appellant's appeal. I now turn to consider the grounds of appeal.

Grounds 2 and 3, which allege an error in amending the charge. These grounds relate to the decision of the magistrate on 23 April 2024, immediately prior to delivering her Honour's reserved decision, to amend charge PE 55253 of 2023 to replace the reference to regulation 273(1) (a) (i) of the *Road Traffic Code* as the written law with, instead, a reference to section 44 of the *Road Traffic Administration Act*.

Section 134 of the *Criminal Procedure Act* relevantly provides:

- (1) The powers in this section may be exercised by a court in relation to a charge at any time before or during trial.
- (2) The powers in this section may be exercised by a court on its own initiative or on the application of a prosecutor or an accused unless contrary intention appears.
- (3) A court on the application of the prosecutor may amend a charge.
- (4) Without limiting subsection (3), a court may amend a charge to correct any variance between the charge and the evidence led by the prosecutor in support of it.

In subsection 10:

A court may refuse to amend a charge, prosecution notice or indictment if it is satisfied the amendment is material to the merits of the case and the amendment would prejudice the accused's defence of the charge, prosecution notice or indictment, and an adjournment would not overcome the prejudice.

The court's power to amend a charge includes the power to amend to a different offence where the new offence is similar in nature and character to the original charge. The appellant submits that the magistrate's decision to amend the charge was made after the trial and therefore was not amended in accordance with section 132 subsection (1) of the *Criminal Procedure Act*. There is no merit in this submission. Section 132 subsection (4) of the *Criminal Procedure Act* permits the magistrate to amend the charge to correct any variance between the charge and the evidence led in support of it.

The evidence led at the trial supported the charge pursuant to section 44 of the *Road Traffic (Administration) Act*. The amendment therefore reflected the evidence. Further, while I accept that the written law upon which a charge is based is material to the merits of the case, I do not consider that any prejudice was caused to the appellant by the amendment of the charge. The description of the charge was not amended.

The description of the charge made it clear that the nature of the allegation was a failure to comply with a direction given under section 39 of the *Road Traffic (Administration) Act*, that being the appellant drove a vehicle, namely a Suzuki Grand Vitara station sedan, registered number Private, false plate, on a road, namely Marmion Avenue, Karnup and, when given a direction by a police officer in accordance with section 39 of the *Road Traffic (Administration) Act* of 2008 to stop the vehicle, failed to comply with that direction.

There is in fact no regulation 273(1)(a)(i) of the Code. Regulation 273(1)(a) of the Code provides for an offence for a driver of a vehicle approaching a police officer who is regulating traffic, disobeys that officer's hand signal to stop. One of the elements of that regulation is that the police officer giving the direction is already regulating traffic rather than undertaking a traffic stop as contemplated by section 44 of the *Road Traffic (Administration) Act*.

The trial was conducted by both parties on the basis that the allegation was a failure by the appellant to stop her car when directed to do so by Sergeant Neeter. The appellant did not defend the charge on the basis that it was a charge pursuant to regulation 273 of the Code. The appellant sought to defend the charge on the basis that Sergeant Neeter did not have authority to issue the direction and that she had a reasonable excuse for failing to comply with that direction, which I will consider in grounds 18 and 19 of the appeal.

Regulation 273 of the Code does not in fact provide a defence of reasonable excuse. I draw the inference that the appellant would not have approached the trial any differently had section 44 of the *Road Traffic (Administration) Act* being correctly identified as the written law for the charge. I therefore find that the magistrate had the power to amend the charge and there was no prejudice occasioned to the appellant as a result of the amendment to the charge. There was no substantial miscarriage of justice as a result of the amendment of the charge. Grounds 2 and 3 have no reasonable prospects of success. I turn to Grounds 4, 15, 16 and 17, the allegation that there was no written delegation.

The appellant contended at trial that Sergeant Neeter did not have a written delegation under sections 8 and 9 of the *Road Traffic (Administration) Act* and therefore did not have power to issue a direction for the appellant to stop the Suzuki. The magistrate, in my view, was correct in finding that section 39 of the *Road Traffic (Administration) Act* directly conferred a power on Sergeant Neeter, as a police officer, to direct the appellant to stop the Suzuki for the purpose of investigating an offence under a road law. Sergeant Neeter did not require a written delegation under sections 8 and 9 of the *RTAA* to issue a direction to the appellant to stop the Suzuki. Grounds 4, 15, 16 and 17 have no reasonable prospects of success.

Ground 5, error in entering not guilty pleas. Section 126 subsection (5) of the *Criminal Procedure Act* provides that the court must enter a plea of not guilty on behalf of the accused where, amongst other things, the accused refuses to enter a plea. The magistrate was correct to proceed on the basis of a not guilty plea. In any event, there has been no miscarriage of justice as a result of the not guilty pleas being entered, as the appellant maintained she is not guilty of the offences. Ground 5 has no

reasonable prospects of success.

Ground 6 and 23, estoppel by legal notices, evidence of licence. By these grounds, the appellant contends that the Magistrate Court was prevented from hearing the charges by virtue of three legal notices and an estoppel. The appellant also contends that she should not be identified by her driver's licence, which lists her name in all capitals. Similar arguments have been considered in this court in matters involving the appellant and have been held to have no merit. For the same reasons, I find that these grounds have no basis in law and have no reasonable prospects of success.

Ground 7, alleged failure to give discovery. The appellant contends that she was unable to mount an adequate defence at trial due to the magistrate's failure to require the respondent to comply with section 61 of the *Criminal Procedure Act* in relation to discovery. Putting aside the issue of whether section 61 of the *Criminal Procedure Act* applied to the matter, section 61(5) and (6) of the CPA provide that the prosecutor must, at least 28 days before the trial date, serve the accused with the following material that is relevant to the charge: any confessional material of the accused, any evidentiary material, a copy of the accused's criminal record and any document that is prescribed.

The respondent submits that disclosure of all witness statements and evidentiary material relied on at trial was served on the appellant on 15 March 2024. The appellant did not seek to adjourn the trial based on any alleged failure of the prosecution to provide disclosure. Further, the appellant has not articulated how any alleged failure to provide disclosure prejudiced her defence. I find that there is no merit to the appellant's contention that full disclosure was not provided and therefore this ground of appeal has no reasonable prospects of success. I turn to grounds 8, 9, 11 and 20, an apprehension of bias on the part of the magistrate.

By these grounds, the appellant alleges that the magistrate was biased in the conduct of the trial, in that the magistrate did not allow the appellant to explore whether the legal authority for the charges pursuant to the transport laws was unlawful, the magistrate acted as a lawyer for the prosecution, the magistrate prevented the witnesses from answering questions during cross-examination and the magistrate categorised the appellant as belonging to a class of people who avoid the operation of laws with

which they do not want to comply.

A miscarriage of justice will be established if the appellant can demonstrate that the magistrate displayed apprehended bias. The test to be applied in determining whether a judicial officer is disqualified by reason of the appearance of bias is whether a fair-minded lay observer might reasonably apprehend that the judicial officer might not bring an impartial and unprejudiced mind to the resolution of the question that the officer is required to decide.

The application of that test involves two steps: first, it requires the identification of the facts and circumstances said to give rise to the apprehension of violence; second, it requires that there is a logical connection established between those facts and circumstances and the asserted conclusion that the judicial officer may not decide the case on its merits. The party who alleges an apprehension of bias bears the onus of proving the facts upon which that allegation is made.

The test is objective, and it is to be assumed that the lay observer will base his or her opinion on a fair assessment of the judicial officer's conduct in the context of the hearing as a whole. Apprehended bias must be firmly established. Suspicions of an ultra-sensitive, paranoid or cynical person do not determine the applicable legal standard of impartiality. The respondent submits that none of the matters raised by the appellant would have caused a fair-minded lay observer to reasonably apprehend that the magistrate might not bring an impartial and unprejudiced mind to the proceeding.

In support of the allegation of apprehended bias, the appellant relies upon rulings of the magistrate that were unfavourable to the appellant. These rulings are separately the subject of grounds of appeal 10 and 12. For the reasons I set out below, the magistrate did not make any error in making those rulings. It follows that such rulings do not establish that the magistrate might not decide the case on its merits.

The magistrate said the following in relation to the appellant belonging to a group of people who avoid the operation of laws that they do not want to comply with.

It became apparent that the accused was a person in a group of people who attempted continually, and without success and without legal training to attempt to avoid

the operation of the laws with which they don't want to comply. This line of thought has emerged in the USA and spread to a number of other locations across the world. Unfortunately, Australia has not been exempt from that and, primarily, that has been accessed by those who abide by it through the internet.

The points raised by the appellant were largely incoherent, and the incomprehensible defence presented here was without any merit and totally misguided and ill-conceived. The accused took sections out of context and sought to apply them to her particular situation.

The learned magistrate's comments, while critical of the appellant, were made in response to the appellant's position adopted at trial. These comments do not establish any apprehended bias on the part of the magistrate. I find that these grounds of appeal are without merit and have no reasonable prospects of success.

Grounds 10 and 12 deal with interventions during cross-examination. The magistrate interjected numerous times during the appellant's cross-examination of the prosecution's witnesses and ruled that certain questions were irrelevant and that the witnesses were not required to answer them. The appellant submits that the magistrate's rulings that questions and evidence were not relevant placed an estoppel on the appellant's defence.

A magistrate must conduct a trial in accordance with the rules of procedural fairness. This includes ensuring that an accused is provided with a reasonable opportunity to present their case. However, this does not give an accused an unfettered right to present his or her case in any manner they choose. The material presented by an accused must be sufficiently relevant and probative to warrant being received by the court. At the trial, the appellant's approach to cross-examination was to persistently pose questions to witnesses which were not relevant to the charges.

The questions related to the appellant's freedom of information request to the Department of Transport, the ownership of roads, and the authority to make and interpret the law, such as the Road Traffic (Administration) Act, and whether the police officers had a delegation of powers. In my view, it was appropriate for the magistrate to intervene and rule that such questions could not be asked because they were not relevant to the charges. In any event, the

answers to those questions had no bearing on the outcome of the trial.

There was no miscarriage of justice occasioned by the magistrate's ruling that the questions could not be asked. These grounds of appeal are without merit and have no reasonable prospects of success. Ground 13, error in allowing exhibits G and H into evidence: the appellant submits that the magistrate was in error in allowing exhibits G and H to be tendered by the prosecution without a witness from the Department of Transport available for cross-examination.

Exhibits G and H are certificates from a delegate of the Department of Transport pursuant to section 110, subsection (1) of the Road Traffic (Administration) Act, confirming that at the time of the offences the appellant's drivers licence was cancelled and that the Suzuki was not registered. These exhibits were tendered through Constable Banner and were objected to by the appellant. The appellant relies on a transcript of a previous decision on 15 December 2023 by Magistrate Oliver in a different prosecution against the appellant, where her Honour dismissed other charges against the appellant due to perceived deficiencies with the content of evidentiary certificates.

That was - that decision was overturned on appeal in the case of Porter v Kelly in which Musikanth held that:

If a document purporting to be a section, 110 subsection (1) certificate says a fact is recorded in or derived from a register or other record maintained under a road law, then I consider that fact to be admissible without more by force of section 110, subsection (2).

The Magistrate was correct in finding that the certificates were admissible pursuant to section 110, subsection (2) of the Road Traffic (Administration) Act. This ground of appeal has no reasonable prospects of success. Ground 14, refusal to issue summons: the appellant submits that the magistrate's refusal to issue a summons to the Commissioner of Police at her request resulted in a substantial miscarriage of justice. The appellant submits that the summons was necessary to her defence as the Commissioner of Police was the only person that had first-hand knowledge of the delegation of function under the Road Traffic (Administration) Act.

The appellant's purpose in applying for the summons and the evidence the appellant sought to obtain from the Commissioner of Police was irrelevant to the charges. I, therefore, find that no miscarriage of justice has been occasioned by the magistrate's refusal to issue the summons. This ground of appeal has no reasonable prospects of success.

Grounds 18 and 19, fear and reasonable excuse: the appellant asserts by ground 18 that when she was stopped in stationary in her car, she was accosted by armed assailants:

A member charged at the window with weapon drawn. His body language would suggest he is going to break the window and drag me out onto the road in stopped traffic. The trigger response we felt of armed assailants advancing upon us, we're put in a state of absolute fear from the military force formation in battle mode engagement.

By ground 19, the appellant asserts that the prosecution could not prove beyond reasonable doubt that fear and flight, or fight reaction was not a plausible reason for not stopping for men carrying handcuffs, a Glock pistol, a Taser, and an AR-15 semi-automatic assault rifle.

These grounds of appeal appear to be a contention that the magistrate erred in law by incorrectly finding that the appellant did not have a reasonable excuse for failing to comply with Sergeant Neeter's direction as provided in section 44 of the *Road Traffic Administration Act*. The appellant's excuse appears to be that the appellant was fearful of Sergeant Neeter when he approached the vehicle and she drove away out of a flight response. Section 78 subsection (3) of the *Criminal Procedure Act* provides that if a written law creates a simple offence and provides an exception in respect of the offence, the exception is to be taken not to apply unless the accused proves on the balance of probabilities that it does.

Therefore, the onus was on the appellant to prove, on the balance of probabilities, that she had a reasonable excuse for failing to comply with Sergeant Neeter's direction to stop. A reasonable excuse must be considered in the circumstances of the individual case and also having regard to the purpose of the provision to which the defence of reasonable excuse is an exception. A reasonable excuse is one which the court thinks that an ordinary and reasonable person in the accused's position, but without

any of the idiosyncratic characteristics of an individual accused, would think was reasonable.

Section 39 of the *Road Traffic (Administration) Act* provides that a police officer may direct a driver of a vehicle to stop the vehicle for the purpose of, or in connection with, exercising other powers under a road law. In effect, this power allows a vehicle to be stopped where there is a suspected breach, to ascertain whether there has been compliance with a road law or to verify whether there is a breach of a road law. The power to direct a vehicle to stop is fundamental to monitor compliance, to ensure timely enforcement and also to ensure that there is no danger to the public.

While the magistrate did not expressly state that the appellant did not have a reasonable excuse pursuant to section 44 of the *Road Traffic (Administration) Act*, there is no error because of that omission. That is because the appellant has the burden of proving a defence of reasonable excuse. The appellant did not adduce any evidence in support of a reasonable excuse.

In any event, on the evidence adduced at trial, I find that the appellant did not, in fact, to have a reasonable excuse for failing to stop because: firstly, the appellant did not adduce any evidence that she was in fear of Sergeant Neeter. The appellant asked Sergeant Neeter questions as to whether it was plausible that a person in her situation would be fearful.

Secondly, the appellant's questions to Sergeant Neeter about drawing his baton were irrelevant to the defence of reasonable excuse, as Sergeant Neeter only drew his baton on the second occasion that the appellant was stopped in traffic, that is, after he had made the direction to stop and the appellant had failed to comply. Thirdly, even if the appellant had proven that she failed to comply with the direction to stop out of fear, this excuse must be objectively reasonable in all of the circumstances.

Fourthly, the context in which the direction to stop was made was that the police officers had activated their emergency lights and signalled the Suzuki to pull over. It was only after the appellant had failed to pull over that Sergeant Neeter approached the appellant in full police uniform from a marked police vehicle and gave a clear but non-threatening direction for the appellant to pull over. These facts are evident from the body-worn camera vision.

And, fifthly, given the circumstances in which the direction to stop was made and the purposes of section 39 of the *Road Traffic Act (Administration) Act* to which I have referred, it was not objectively reasonable for a driver to avoid their obligation to obey a direction because they are in fear of a police officer directing them to stop. If this were considered to be an objectively reasonable excuse, then it would frustrate the very purpose of section 39 of the *Road Traffic (Administration) Act*. There is no merit in these grounds of appeal, and they have no reasonable prospects of success.

Grounds 21, 22 and 24. By these grounds of appeal, the appellant alleges that she was assaulted, deprived of her liberty and threatened with contempt at the conclusion of sentencing before the magistrate on 23 April 2024. These grounds of appeal relate to matters that are alleged to have occurred after the sentencing process had concluded. They are not relevant to the convictions of the offences and have no reasonable prospects of success.

By the appeal notice filed 23 May 2024, the appellant indicated that she sought to appeal the sentences imposed for the offences, however, the appellant's grounds of appeal related solely to an appeal against conviction. It appears that the appellant appeals the sentences imposed on the basis that she ought not to have been convicted of the offences. For all of the reasons I have outlined, none of the grounds of appeal have any reasonable prospects of success. I therefore refuse leave to appeal and dismiss the appeal. I will hear the respondent as to the appropriate costs orders. Yes, Mr Mayne.

MAYNE, MR: Thank you. I think probably the most appropriate way, maybe we could provide written submissions as the costs, if your Honour would be amenable to that.

WHITBY J: I would prefer, otherwise we have to have another hearing, Mr Mayne.

MAYNE, MR: Yes. I think there were orders to that effect, that would be our preference, which we would seek an order for costs as - - -

WHITBY J: Do you have an amount of cost that you seek? I would prefer to deal with it today.

MAYNE, MR: Yes. The actual amount is significantly more, but I think adopting a figure similar to that, it would be \$4000.

WHITBY J: Yes. All right. Thank you. Do you have anything to say in relation to costs, Dawn?

KELLY, MS: This is - this was - is this civil or is this criminal?

WHITBY J: I'm asking you in relation to costs.

KELLY, MS: Well, if it's deemed as criminal, you cannot award costs. You cannot, as - did you not hear my submissions today? So, Deust versus - I can't remember it now, but did you not hear that?

WHITBY J: I did hear that, yes. So you're repeating those submissions?

KELLY, MS: Yes. And, also, how may you find the laws of the state devoid of her Majesty's authority without being in contempt of the sovereign, section 44 of the Criminal Code, perpetuating a criminal act under the colour of judicial authority and denial of my rights?

WHITBY J: All right. In the circumstances, Mr Mayne, I will order costs and I will fix them in the amount of \$400 - sorry \$4000. Thank you. The court will now adjourn.

AT 1.09 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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