

CITATION: *Police v Woods* [2026] NTLC 13

PARTIES: *Police*

v

Brendan Jabanardi Woods

TITLE OF COURT: LOCAL COURT

JURISDICTION: CRIMINAL

FILE NO(s): 22610418

DELIVERED ON: 1 September 2026

DELIVERED AT: Alice Springs

HEARING DATE(s): 17 August 2026

DECISION OF: Judge Bortoli

CATCHWORDS:

SUMMONS TO PRODUCE DOCUMENTS – Whether legitimate forensic purpose established – Whether documents attract legal professional privilege – Whether power to prevent inspection of documents due to non-payment of costs

Evidence (National Uniform Legislation) Act 2011 s 194

Local Court (Criminal Procedure) Act 1928 s 23

Gazecki v Fell [2026] NSWSC 923

National Employers' Mutual General Insurance Association Ltd v Waind [1978] 1 NSWLR 372

Ragg v Magistrates' Court of Victoria (2008) 18 VR 300

R v Mokbel (Ruling No 1) [2005] VSC 410

The Commissioner of the Police Force for the Northern Territory v Cassidy & Anor [2013] NTCA 1

REPRESENTATION:

Counsel:

Informant: No appearance

Defendant: Ms Al Majed

NT Police
Association: Mr Murphy

Solicitors:

Informant: No appearance

Defendant: North Australian Aboriginal
Justice Agency

NT Police
Association: Nil

Decision category classification:

B

Decision ID number:

[2026] NTLC 13

Number of paragraphs:

25

IN THE LOCAL COURT AT
ALICE SPRINGS IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 22610418

BETWEEN:

Police

Informant

AND:

Brendan Woods

Defendant

REASONS FOR DECISION

(Delivered 1 September 2026)

JUDGE BORTOLI

1. The defendant, Mr Woods, has been charged with several offences arising from an incident on 25 February 2025. At the request of Mr Woods, the Court issued a summons to the President of the Northern Territory Police Association (NTPA) for the production of documents. The NTPA have applied to set aside the summons and/or protect certain documents from inspection by the parties.
2. The issues for determination are as follows:
 - a. Whether there is a legitimate forensic purpose for which Mr Woods seeks access to the documents described in the summons.
 - b. If so, whether the relevant documents identified by the NTPA attract legal professional privilege.
 - c. Whether the Court may prevent Mr Woods from inspecting the documents until the NTPA's compliance costs are paid.

Is there a legitimate forensic purpose?

3. Section 23 of the *Local Court (Criminal Procedure) Act 1928* provides that a Judge, registrar or JP may issue a summons to a person to produce an 'article' (which includes any document). To do so, a Judge, registrar or JP must be satisfied that the article is "*required for the purposes of evidence upon behalf of either party to any information...*"

4. Where the Court issues a summons to produce documents, the summonsed party may apply to set the summons aside and/or object to the parties inspecting some of the documents produced.
5. There are three distinct stages following the issuing of a summons.¹ The first stage is obedience to the summons. This involves the determination of any objections to the summons itself.² The question of whether there is a legitimate forensic purpose falls with this stage and is to be conducted without consideration of the documents produced by the NTPA.³
6. Mr Woods must establish it is 'on the cards' that the documents described in the summons would assist his case.⁴ Put another way, there must be a reasonable possibility that the documents would materially assist his defence.⁵ This is a low threshold.⁶ I agree with observations made previously that defence lawyers are in a better position to make appraisals of the value of the documents sought.⁷ It is, of course, not for the Court to decide how Mr Woods should run his case.
7. One of the witnesses to the charges faced by Mr Woods is Constable Robertson. In fact, Constable Robertson is the complainant for count 1, a charge of recklessly endangering life. Mr Woods says that Constable Robertson's credibility and reliability is in issue in the substantive proceedings.
8. Constable Robertson discharged his firearm during the incident at a vehicle being driven by Mr Woods. He asked to speak to the NTPA prior to providing any formal statement.⁸ His formal statement was made orally and in the presence of the NTPA President.⁹ The summons in question seeks production of documents relating to communications between Constable Robertson and the NTPA in relation to the relevant incident for which Mr Woods has been charged.
9. It is clearly probable that the NTPA has a record of what one or more persons were told by Constable Robertson. There is a reasonable possibility that these records would be relevant both to his credibility and reliability (e.g. whether he has provided a consistent account).
10. The NTPA disputed that this was sufficient to establish a legitimate forensic purpose. It played two video clips in Court which capture the substantive part of the alleged offending. It asserted that Constable Robertson's account is clearly credible and reliable as it is consistent with that

¹ *National Employers' Mutual General Insurance Association Ltd v Waind* [1978] 1 NSWLR 372 at 380.

² *Ibid* at 380-1.

³ *Gazecki v Fell* [2026] NSWSC 923 at [37].

⁴ *The Commissioner of the Police Force for the Northern Territory v Cassidy & Anor* [2013] NTCA 1 at [15].

⁵ *Ragg v Magistrates' Court of Victoria* (2008) 18 VR 300 at [96].

⁶ *Ibid*.

⁷ *R v Mokbel (Ruling No 1)* [2005] VSC 410 at [71].

⁸ Statutory declaration of Bradley Wallace dated 26 February 2026 at [10].

⁹ A transcript of the recording was provided to me for the purposes of this proceeding.

footage. This submission appeared to invite me to make a ruling as to his credibility and reliability. It would be inappropriate for me to do so. That is a matter for the jury. In any event, there are aspects of Constable Robertson's statement that are either not captured or readily apparent from the video footage. This includes his assertion that Mr Woods was speeding, swerving, revving the engine and screeching tyres. I could not make any properly informed assessment of his credibility or reliability at this stage of the proceedings.

11. The NTPA also submits that the elements for count 1 (recklessly endangering life) are entirely objective. For example, the prosecution must prove that Mr Woods' conduct gave rise to the danger of death to any person.¹⁰ It is unnecessary to prove (for example) that Constable Robertson was in fear. The NTPA again referred to the video footage and stated that the footage would form the basis of the jury's assessment of the matter and whether the objective elements were proven. It was submitted that Constable Robertson's testimony would be irrelevant to the jury's determination. At the very least, it was argued that his credibility and reliability were irrelevant to the objective test to be applied.
12. Although I accept the elements for count 1 are objective, these arguments are flawed. Firstly, an objective test can only be applied after considering what evidence is accepted. The credibility and reliability of witnesses is central to this process. Secondly and as discussed above, not everything is captured on the video footage. Finally, I reiterate that it is not for the NTPA or the Court to decide how Mr Woods runs his case. Whether placing Constable Robertson's credibility and reliability in issue is a good forensic decision is a matter for Mr Woods and his counsel.
13. I accept that the materials sought under summons may be relevant to a jury's assessment of Constable Robertson's account, including whether Mr Woods was speeding, swerving, revving the engine and screeching the tyres. There is a reasonable possibility that the documents may assist Mr Woods. This is sufficient to make out a legitimate forensic purpose. The NTPA's application to set aside the summons to produce documents is dismissed.

Do the identified documents attract legal professional privilege?

14. Considerations of whether documents attract privilege and ought to be protected from disclosure fall with the second stage of the summons process. At this stage, the Court views the documents to determine claims for privilege.
15. The NTPA produced documents under the summons in two parts. Annexure A contains documents over which legal professional privilege is claimed. Annexure B contains documents over which no privilege is claimed.
16. In these matters, it is common for the summonsed party to provide an affidavit setting out the basis for their claim of privilege. There may also be a confidential affidavit provided only to the Court. No such affidavit was filed in this case. However, the documents are clear enough on their face to enable a determination to be made.

¹⁰ *Criminal Code* s 174C(b).

17. Having reviewed the materials at Annexure A, it is readily apparent that all those documents are either confidential communications between a client and lawyer and/or between lawyers which directly relate to legal advice provided to a client. Accordingly, they attract client legal privilege pursuant to section 118 of the *Evidence (National Uniform Legislation) Act 2011*. Section 118 applies to protect documents from disclosure under a summons.¹¹
18. Orders will be made to ensure that the documents at Annexure A are destroyed. The parties will be permitted to inspect and copy only the documents at Annexure B.

Can a restriction be placed on Mr Woods' access to the documents?

19. The NTPA asks the Court to place some form of restriction on Mr Woods' access to documents until its costs of complying with the summons are paid. The NTPA provided an invoice it says reflects its costs of complying with the summons and noted no payment had been made by Mr Woods. I do not determine, at this stage, whether the costs claimed are reasonable or appropriate.
20. The NTPA relies on section 194 of the *Evidence (National Uniform Legislation) Act 2011*. That provision empowers the Court to take certain actions against a witness where they have disobeyed a summons (e.g. issuing a warrant). To take any action, the Court must first be satisfied that a sum of money (or equivalent) was provided to the person which is sufficient to meet the reasonable expenses of attending as required by the summons.
21. On its face, section 194 does not empower the Court to award costs of compliance with a summons or prevent disclosure of produced documents until such costs are paid. While there may have been an argument as to whether the Court could have exercised any powers in section 194 against the President of the NTPA if documents were not produced, this question does not arise.
22. The NTPA acknowledged that it could not find any legislation giving the Court the power it asked to be exercised. Further, it was acknowledged there was no case law in support of its position. I would have to infer that the Court had this power from a provision such as section 194. I cannot do so. The purpose of section 194 is to empower the Court to act where a summons is not complied with. Not the opposite position as is the case here.
23. In the circumstances, I find that I do not have any power to prevent Mr Woods from accessing the documents until he pays the NTPA's costs of compliance with the summons.

Costs

24. I noted at the conclusion of the oral hearing that I would not address the issue of costs in this decision, save for the above. If the parties seek orders as to costs, including the costs of complying with the summons, a timetable is provided below. I have also allowed liberty to apply in case either party requires an adjustment to the timetabling and/or seeks alternative orders. Otherwise, I will expect the parties to comply with that timetable.

¹¹ *Evidence (National Uniform Legislation) Act 2011* s 131A.

25. I also encourage the parties to discuss the issue of costs to come to any agreement if possible.

Orders

1. The application of the NTPA to set aside the summons to produce documents dated 8 July 2026 is dismissed
 2. Unless an appeal is filed, all documents at Annexure A of the produced documents are to be destroyed 28 days after the date of this decision
 3. The Informant and Mr Woods have leave to inspect and copy the documents at Annexure B of the produced documents.
 4. If any party seeks its costs of this proceeding and/or its costs of compliance with the summons, they are to file and serve an affidavit, all other evidence in support and written submissions not exceeding 10 pages by 25 September 2026.
 5. The responding party is to file and serve an affidavit, all other evidence in response and written submissions not exceeding 10 pages by 16 October 2026.
 6. The party seeking costs may file written submissions in reply not exceeding 2 pages by 23 October 2026.
 7. A written decision as to costs will be emailed to the parties once finalised.
 8. The parties have liberty to apply.
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