
AMENDED COMPLAINT

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DEVON TYLER BARBER,

Plaintiff,

v.

Civil Action No. 1:22-cv-06206

JOSEPH HARDEMOM SR.,
JOSEPH HARDEMOM JR.,
JOSHUA HARDEMOM,
JOE'S PAINTING & RENOVATIONS, LLC,
TOWNSHIP OF GALLOWAY,
ATLANTIC COUNTY PROSECUTOR'S OFFICE,
ATLANTIC COUNTY JUSTICE FACILITY,
JOHN DOE CORRECTIONAL OFFICERS 1-10,
JOHN DOE MEDICAL CONTRACTORS 11-15,

Defendants.

Plaintiff, appearing pro se, alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(a)(3)–(4) (civil rights actions).
2. This Court has supplemental jurisdiction over Plaintiff's New Jersey state law claims pursuant to 28 U.S.C. § 1337.
3. Venue is proper in this District under 28 U.S.C. § 1331(b) because the events giving rise to these claims occurred in Atlantic County, New Jersey.

II. PARTIES

4. Plaintiff Devon Tyler Barber is a resident of Atlantic County, New Jersey.
5. Defendant Joseph Hardemon Sr. is an individual believed to be residing in New Jersey, or alternatively Florida. His exact residence is presently unknown.

6. Defendant Joseph Hardemon Jr. is an individual believed to be residing in New Jersey, or alternatively Florida. His exact residence is presently unknown.
7. Defendant Joshua Hardemon is an individual believed to be residing in New Jersey, or alternatively Florida. His exact residence is presently unknown.
8. Defendant Joe's Painting & Renovations, LLC is, upon information and belief, a New Jersey limited liability company engaged in home improvement contracting and formerly registered with the New Jersey Division of Consumer Affairs as a licensed Home Improvement Contractor (HIC License No. 13VH09873600). Said license has expired and is no longer active.
9. Defendant Township of Galloway is a municipal entity organized under the laws of New Jersey, responsible for the actions of its police officers and employees.
10. Defendant Atlantic County Prosecutor's Office is a governmental subdivision of the State of New Jersey.
11. Defendant Atlantic County Justice Facility (ACJF) is a county jail operated under Atlantic County, responsible for the custody and care of detainees.
12. Defendants John Doe Correctional Officers 1–10 are employees of ACJF whose identities are presently unknown.
13. Defendants John Doe Medical Contractors 11–15 are private medical providers contracted by ACJF whose identities are presently unknown.

III. FACTUAL ALLEGATIONS

14. On or about July 11, 2022, Plaintiff went to 1525 West Aloe Street to retrieve his personal property and tools after a wage dispute with Defendants Joseph, Joshua, and Joseph Sr. Hardemon.
15. Plaintiff had worked for Defendants through their business, Joe's Painting & Renovations, and was not paid as agreed. At Defendants' request, Plaintiff displayed a sign at the job site upon arrival in order to protect the tools and property, consistent with his arrangement to live at the premises while performing work.
16. In retaliation, the Hardemons falsely reported to law enforcement that Plaintiff's sign and presence constituted harassment and threats to their safety.
17. Acting on this report, Galloway Township Police arrested Plaintiff on July 11, 2022. Plaintiff was transported first to the Galloway Township Police Department and then to the Atlantic County Justice Facility (ACJF).
18. Upon intake at ACJF, Plaintiff was denied access to a phone call, in violation of his rights to counsel and communication.

19. Plaintiff was subsequently assaulted by correctional officers, including being slammed headfirst into concrete when he inquired about his phone call.
20. Plaintiff was detained for approximately 62 days, of which 45 days were spent in solitary confinement.
21. Solitary confinement exceeded the limits imposed by New Jersey's Isolated Confinement Restriction Act, N.J.S.A. 30:4-82.6, which prohibits more than 20 consecutive days and 30 days in a 60-day period.
22. During detention, Plaintiff was subjected to unsanitary conditions, including infestations of bed bugs and scabies.
23. Plaintiff sustained an untreated head injury from correctional officers' use of force.
24. Plaintiff suffered psychological harm due to prolonged isolation, denial of communication, and inhumane conditions.
25. Defendants acted with deliberate indifference to Plaintiff's health and safety, causing physical injury, emotional distress, and violation of constitutional rights.

IV. CAUSES OF ACTION

COUNT I – Excessive Force (42 U.S.C. § 1983)

26. Plaintiff repeats and realleges Paragraphs 14–25.
27. John Doe Correctional Officers, acting under color of state law, used excessive force by slamming Plaintiff's head into concrete without justification.
28. This conduct violated Plaintiff's rights under the Eighth and Fourteenth Amendments to the U.S. Constitution.

COUNT II – Cruel and Unusual Punishment / Conditions of Confinement (42 U.S.C. § 1983)

29. Plaintiff repeats and realleges Paragraphs 14–25.
30. Defendants subjected Plaintiff, a pretrial detainee, to punitive solitary confinement for 45 days, exceeding statutory and constitutional limits.
31. Plaintiff endured unsanitary conditions, infestations, and untreated injuries.
32. These acts constituted cruel and unusual punishment and deliberate indifference to health and safety, in violation of the Fourteenth Amendment.

COUNT III – Denial of Communication and Access to Counsel (42 U.S.C. § 1983)

33. Plaintiff repeats and realleges Paragraphs 14–25.
34. Defendants denied Plaintiff his right to a phone call upon intake, preventing timely access to counsel.
35. This denial violated Plaintiff's rights to due process under the Fourteenth Amendment.

COUNT IV – Defamation / Slander (New Jersey State Law)

36. Plaintiff repeats and realleges Paragraphs 14–25.
37. Defendants Joseph Hardemon Sr., Joseph Hardemon Jr., and Joshua Hardemon knowingly made false statements to police that Plaintiff harassed and threatened them.
38. These statements were false, retaliatory for Plaintiff's wage demands, and caused Plaintiff's arrest and reputational harm.
39. Defendants are liable for defamation under New Jersey law.

COUNT V – Wage Retaliation (N.J. Wage Theft Act, N.J.S.A. 34:11-4.1 et seq.)

40. Plaintiff repeats and realleges Paragraphs 14–25.
41. Plaintiff engaged in protected activity by demanding unpaid wages.
42. Within 90 days, Defendants retaliated by filing a false harassment complaint.
43. Under N.J.S.A. 34:11-4.10(c), such action creates a presumption of retaliation.
44. Defendants are liable for retaliation under the New Jersey Wage Theft Act.

COUNT VI – Negligent Supervision and Medical Neglect (New Jersey State Law)

45. Plaintiff repeats and realleges Paragraphs 14–25.
46. Defendants ACJF and its contractors failed to provide adequate medical care for Plaintiff's head injury and infestations.
47. Defendants failed to properly supervise staff who assaulted and mistreated Plaintiff.
48. These failures caused Plaintiff physical injury, illness, and emotional distress.

COUNT VII – Monell Liability (42 U.S.C. § 1983)

49. Plaintiff repeats and realleges Paragraphs 14–25.

50. The Township of Galloway, Atlantic County, and ACJF maintained customs or policies that allowed denial of phone access, excessive solitary confinement, excessive force, and neglect of detainee medical needs.

51. These policies and practices were the moving force behind the constitutional violations Plaintiff suffered.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands judgment against Defendants as follows:

- a. Compensatory damages in an amount to be determined by the Court or jury for physical injuries, emotional distress, lost income, and reputational harm;
- b. Punitive damages against individual Defendants to deter and punish willful misconduct;
- c. Liquidated damages of 200% of unpaid wages under the New Jersey Wage Theft Act;
- d. Treble damages, attorneys' fees, and costs under the New Jersey Consumer Fraud Act;
- e. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988;
- f. Injunctive relief requiring Defendants to reform policies on solitary confinement, detainee communication, and medical care;
- g. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

BY: Devon Tyler, X(T)X ARR.
Devon Tyler Barber

Plaintiff, Pro Se

c/o 325 East Jimmie Leeds Road, Suite 7, Galloway Township, New Jersey.

(609) 665-9350 / Devon@Tiller.Earth / dTb33@PM.Me

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY, Plaintiff, Indictment Nos.: 22-09-01413-I; 22-10-01440-I
v. Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

JEDS SUBMISSION – MOTION COVER SHEET

Submitted by:

Devon Tyler Barber
Defendant, pro se, sui juris (pending advisory counsel) **Date of Upload:** August, 26 2025

Documents Submitted via JEDS:

1. JEDS SUBMISSION – MOTION COVER SHEET
2. Cover Letter to the Honorable Court
3. Notice of Motion to Vacate Plea and Dismiss Indictments
4. Certification of Devon Tyler Barber
5. Memorandum of Law in Support
6. Proposed Order Vacating Plea, Dismissing Indictments, and Directing Expungement
7. Defendant's Supplemental Brief in Support of Motion to Vacate Plea and Dismiss Indictments
8. Certification of Service (filed as last page of packet)

Filing Type: Motion – Post-Conviction (R. 3:21-1; R. 3:22)

Case Caption: State of New Jersey v. Devon Tyler Barber

Division: Criminal – Atlantic County, Law Division

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This Cover Sheet is provided for organizational and informational purposes only.
It is not a required pleading under the New Jersey Court Rules. All motion papers
are included in this submission and should be considered in full.

Cover Letter

Devon Tyler Barber
c/o 325 East Jimmie Leeds Road
Suite 7-333
Galloway, NJ 08205-8205

Date: August 26, 2025

Honorable Presiding Judge, J.S.C.
Superior Court of New Jersey
Law Division – Criminal Part
Atlantic County
4997 Unami Boulevard
Mays Landing, NJ 08330

Re: State of New Jersey v. Devon Tyler Barber
Indictment Nos. 22-09-01413-I; 22-10-01440-I
Motion to Vacate Plea and Dismiss Indictments

Dear Judge:

I respectfully submit the enclosed *Notice of Motion to Vacate Plea and Dismiss Indictments*, together with my supporting **Certification, Memorandum of Law, and Proposed Order**, pursuant to N.J. Ct. R. 3:21-1 (permitting withdrawal of a plea to correct a manifest injustice) and consistent with the principles of **fundamental fairness** recognized under New Jersey law, including *State v. Slater*, 198 N.J. 145 (2009).

I write separately to emphasize the **extraordinary circumstances** that compel this application, which implicate not only N.J. Ct. R. 3:21-1 but also the doctrine of **fundamental fairness** under the **New Jersey Constitution art. I, ¶ 1**, and the **due process guarantees** of both the State and Federal Constitutions.

While detained pretrial, I was denied the most basic safeguards of due process. I was never allowed a phone call upon admission. I was physically assaulted by correction officers—my head slammed into concrete—leaving me with lasting bumps and ongoing pain. When I peacefully requested a phone call, I was punished with approximately forty-five (45) days in solitary confinement.

Additionally, I was confined in a medical pod infested with **scabies and bed bugs**. On three separate occasions, my body was left itchy and bloody, yet I was never moved or provided proper medical care. The facility failed to fumigate or protect detainees until much later, when only a few individuals were finally checked and removed. These conditions were cruel, unsanitary, and inhumane, condemned under *Avant v. Clifford*, 67 N.J. 496 (1975).

Altogether, I endured over one hundred days of coercive detention that no reasonable person could withstand without severe harm to body and mind. These conditions deprived me of the ability to make knowing and voluntary decisions. My guilty plea was not the product of free will, but of fear, physical pain, medical neglect, and unconstitutional pressure.

Equally troubling is the origin of this prosecution. The Hardemon family engaged me under a pay-per-job agreement, but when I sought the wages I had earned, they mocked and provoked me, destroyed my property, and killed my pets. **This was, in essence, a civil wage dispute. Criminalizing a labor disagreement contravenes principles of prosecutorial discretion and fairness recognized in *State v. Abbati*, 99 N.J. 418 (1985).**

During my detention hearings, I was further stigmatized by being branded with “fringe conspiracy theories” merely for professing love of country and God. Such character attacks,

introduced without the safeguard of cross-examination, violate the **Sixth Amendment right to confrontation** as set forth in *Crawford v. Washington*, 541 U.S. 36 (2004).

New Jersey courts have long held that “manifest injustice” and “fundamental fairness” require vacatur where coercion, due process violations, or extraordinary circumstances undermine the voluntariness of a plea. See *Slater*, 198 N.J. at 156. My case falls squarely within those protections.

Accordingly, I respectfully request this Court to vacate my guilty pleas, dismiss both indictments with prejudice, and direct automatic expungement pursuant to N.J. Stat. Ann. § 2C:52-6(a). Only such relief will restore public confidence in the integrity of these proceedings. Granting this relief is not only necessary to correct the manifest injustice I have endured, but also to preserve public trust that our courts will not sanction pleas entered under coercion, neglect, or abuse.

Respectfully submitted,

BY: Devon Tyler, X(T)X, A.R.R.

Devon Tyler Barber
Defendant, *pro se, sui juris* (pending advisory counsel)

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION

TO: Atlantic County Prosecutor's Office, C/O 4997 Unami Boulevard, Mays Landing, NJ 08330

PLEASE TAKE NOTICE that on the first available motion date, the undersigned, **Devon Tyler Barber, Defendant *pro se, sui juris* (pending advisory counsel)**, shall move before the Superior Court of New Jersey, Law Division – Criminal Part, Atlantic County, for an Order:

1. **Vacating Defendant's plea under N.J. Ct. R. 3:21-1** (plea withdrawal) or, alternatively, **N.J. Ct. R. 3:22** (post-conviction relief), to correct a *manifest injustice*;
2. **Dismissing Indictments 22-09-01413-I and 22-10-01440-I** with prejudice;
3. **Compelling the State to produce discovery unlawfully withheld in violation of N.J. Ct. R. 3:13-3, *Brady v. Maryland*, 373 U.S. 83 (1963), and related authority;**
4. **Ordering expungement** pursuant to **N.J. STAT. ANN. § 2C:52-6(a)** upon dismissal; and
5. **Granting such other relief** as the Court deems just and equitable.
6. Pursuant to N.J. Ct. R. 1:6-2(d), Defendant respectfully requests that this motion be decided on the written submissions without oral argument.
7. Considering as evidence the *Presentence Report* and plea paperwork attached as **Exhibit A**, which confirm that the plea lacked a factual basis and was entered under duress, requiring vacatur under N.J. Ct. R. 3:21-1.

Respectfully asserted and demanded as of right, without prejudice and without waiver of any rights. Submitted by: BY: Devon Tyler, X/TX ACR Date: 08/26/2025

Devon Tyler Barber, Defendant, pro se, *sui juris* (pending advisory counsel)

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

CERTIFICATION OF DEVON TYLER BARBER

I, **Devon Tyler Barber**, certify as follows:

1. Between **June 3 and July 11, 2022**, I resided and worked at **1525 W. Aloe Street, Egg Harbor City** under a pay-per-job agreement with **Joseph Hardemon Jr.**, trading as **Joe's Painting & Renovations**.
2. Mr. Hardemon was a **Registered NJ Home Improvement Contractor**. He confirmed in **text messages** that payment was owed and repeatedly promised to pay. Those texts are **party admissions** (N.J. R. EVID. 803(b)(1)) and **authenticable** (N.J. R. EVID. 901).
3. Despite his assurances, **I was never paid**. When I sought to recover property and wages, my phone was taken and evidence lost.
4. On **July 11, 2022**, before I arrived, the Hardemon family had **already contacted police** and tracked my location via Snapchat.
5. Upon arrival, I was mocked and provoked; my **aquariums were smashed** and my **exotic pets were killed**, conduct prohibited by N.J. STAT. ANN. § 4:22-17.
6. **Joseph Hardemon's ankle injury** occurred during this destruction — not from any purposeful assault by me.
7. I recall only a single strike (slap or closed fist). I was **not in control of my faculties, could not speak coherently, and never intended significant harm**.

8. The **Presentence Report (PSR)** itself states: "*Officers ordered defendant to drop the crowbar, to which he complied.*" I never brandished or used it unlawfully.
9. I was detained ~108 days, including ~45 in solitary confinement, before entering a plea. The **Judgments of Conviction** reflect this exact jail credit.
10. Ultimately, I pled guilty to N.J. STAT. ANN. § 2C:12-1(b)(7) (**Aggravated Assault, 3rd degree**) under **Indictment 22-09-01413-I**, with other counts — including two weapons charges, simple assault, and resisting — all dismissed. A concurrent plea to N.J. STAT. ANN. § 2C:12-3(a) (**Terroristic Threats**) under **22-10-01440-I** followed.
11. The PSR and Statement of Reasons contain **untested prejudicial assertions** ("sovereign citizen," "harassing communications") that were never admitted into evidence and unfairly colored the record.
12. This entire conflict arose from a **civil wage dispute**, not a criminal scheme.
13. Attached as **Exhibit A** are excerpts from the Presentence Report and plea paperwork. The Presentence Report, prepared by the State, confirms that I **immediately complied with police orders to drop the crowbar**, that **no purposeful or knowing attempt to cause significant bodily injury occurred**, and that the only alleged injury was **minor swelling from a fall**. The Report itself cautions that **no inference of guilt may be drawn from dismissed charges**. The plea forms further show that I **marked answers inconsistently and under duress**, with **boxes unchecked or unclear**, reflecting that my plea was **not knowing or voluntary**. These documents, taken together, prove that the statutory elements of N.J.S.A. § 2C:12-1(b)(7) were **not met**, and that the plea was neither factually supported nor voluntary as required by N.J. Ct. R. 3:9-2.

I certify that the foregoing statements made by me are true.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully asserted and demanded as of right, without prejudice and without waiver of any rights.

By: Devon Tyler, X(TX), A.R.R.

Devon Tyler Barber

Defendant, pro se, sui juris (pending advisory counsel)

Date: 08/26/2025

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY, Plaintiff, Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Defendant. Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

MEMORANDUM OF LAW

POINT I – THE PLEA MUST BE VACATED UNDER N.J. CT. R. 3:21-1 (Manifest Injustice)

N.J. Ct. R. 3:21-1 authorizes this Court to permit withdrawal of a guilty plea after sentencing “to correct a manifest injustice.” In determining whether manifest injustice exists, the Court must apply the four factors set forth in *State v. Slater*, 198 N.J. 145 (2009). Each factor weighs heavily in Defendant’s favor.

1. Colorable Claim of Innocence

The Presentence Report records compliance with police orders (“drop the crowbar”). Joseph Hardemon’s ankle injury was self-inflicted during the destruction of property, not caused by Defendant. Defendant admitted only a single strike without intent. The statutory elements of *N.J. STAT. ANN. § 2C:12-1(b)(7)* are not met.

2. Reasons for Withdrawal

Defendant endured approximately 108 days of coercive detention, including 45 days in solitary confinement, before entering a plea. Such extreme confinement rendered Defendant unable to voluntarily or intelligently enter a guilty plea, in violation of *Boykin v. Alabama*, 395 U.S. 238 (1969).

3. Existence of a Plea Bargain

The plea followed dismissal of inflated charges, including two weapons counts. While styled as a "bargain," the plea was the product of coercion and overcharging, which nullifies its voluntariness and fairness.

4. Prejudice to the State

Vacating the plea will not unduly prejudice the State. All relevant evidence is institutional in nature—police reports, 911/CAD records, body-worn or dash-camera video—and should already exist. No reliance interest is undermined by correcting this injustice. **Accordingly, all four Slater factors weigh in favor of vacating Defendant's plea.** All four factors support vacatur.

POINT II – STATUTORY ELEMENTS OF 2C:12-1(b)(7) ARE NOT MET

The aggravated assault conviction under *N.J. STAT. ANN. § 2C:12-1(b)(7)* cannot stand because the statutory elements were not satisfied. That statute requires proof that a defendant **purposely or knowingly attempted to cause significant bodily injury.** "Significant bodily injury" is specifically defined in *N.J. STAT. ANN. § 2C:11-1(d)* as *a temporary loss of the function of any bodily member or organ, or a temporary loss of any one of the five senses.*

No such injury occurred here. The Presentence Report (PSR), dated December 27, 2022, states: "*When officers exited their vehicle, they ordered defendant to drop the crowbar, to which he*

complied." This is the State's own record and it confirms Defendant's immediate compliance with police orders. The complainant's ankle injury was self-inflicted when he stumbled during the chaos. No evidence shows that Defendant purposely or knowingly attempted to cause such injury, nor that any "temporary loss of function" ever resulted.

Equally important, Defendant was not in a mental state to form purposeful or knowing intent. At the time, he was suffering from acute post-traumatic stress, betrayal by those around him, and extreme emotional distress. He recalls being unable to speak coherently and not in control of his faculties. New Jersey law is clear that **purposeful or knowing attempt** is the required mens rea for this offense, and that **recklessness is insufficient**. *State v. Thomas*, 187 N.J. 119, 130 (2006). Defendant's impaired condition further negates any inference of purposeful or knowing conduct.

Finally, under *N.J. STAT. ANN. § 2C:5-1* (the general attempt statute), the State was required to prove that Defendant took a **substantial step** toward causing significant bodily injury with the requisite mental state. No such substantial step occurred. The crowbar was never brandished or used, weapons charges were dismissed, and compliance with police orders was immediate. Mere speculation or the fact that the complainant fell cannot satisfy the statutory threshold.

Accordingly, the conviction cannot rest on *N.J. STAT. ANN. § 2C:12-1(b)(7)*. At most, the facts could support simple assault under *N.J. STAT. ANN. § 2C:12-1(a)(1)*—a disorderly persons offense—but not aggravated assault in the third degree.

SUPPLEMENTAL POINT – PRESENTENCE REPORT CONFIRMS PLEA WAS UNSUPPORTED AND INVOLUNTARY

The State's own Presentence Report eliminates any factual basis for aggravated assault under **N.J.S.A. 2C:12-1(b)(7)**. It records that Defendant **immediately complied with orders to drop the crowbar**, confirming **no purposeful or knowing attempt to use a weapon**. The

complainant's injury — a **swollen foot from stumbling** — does not meet the statutory threshold of "significant bodily injury" under **N.J.S.A. 2C:11-1(d)**. Further, the Report itself cautions that **no inference of guilt may be drawn from dismissed charges**. Coupled with plea paperwork showing **ambiguous and inconsistent markings made under duress**, the record demonstrates that Defendant's plea was **neither supported by fact nor entered knowingly and voluntarily as required by N.J. Ct. R. 3:9-2. Vacatur is therefore mandated under N.J. Ct. R. 3:21-1**.

POINT III – THE MATTER ORIGINATED AS A CIVIL WAGE DISPUTE

This prosecution arose from what was fundamentally a civil wage dispute. Joseph Hardemon was a registered New Jersey Home Improvement Contractor under the Contractors' Registration Act (*N.J. STAT. ANN. § 56:8-136 et seq.*). Text messages confirm that payment for Defendant's labor was promised, rendering the dispute enforceable under the New Jersey Wage Payment Law (*N.J. STAT. ANN. § 34:11-4.1*). Criminalizing a civil dispute over unpaid wages represents a misuse of prosecutorial authority and a distortion of criminal law.

POINT IV – DISCOVERY VIOLATIONS MANDATE RELIEF

Defendant was entitled under *N.J. Ct. R. 3:13-3* to all exculpatory and relevant evidence. In *State v. Stein*, 225 N.J. 582 (2016), the New Jersey Supreme Court held that municipal defendants are entitled to dashcam and body-worn camera (BWC) recordings; indicted defendants have no lesser right. Moreover, Attorney General Directive 2021-5 requires patrol officers to wear BWCs and to retain recordings for at least 180 days, and longer when case-related.

Yet Galloway authorities claimed that "only car video exists." Either the BWC evidence exists and was withheld in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), or it was destroyed

despite mandatory retention N.J. Ct. R.s, constituting spoliation. Furthermore, the State's reliance on incomplete or misleading evidence runs afoul of *Napue v. Illinois*, 360 U.S. 264 (1959), which forbids convictions based on false testimony or material omissions. These discovery failures alone warrant relief.

POINT V – PLEA WAS TAINTED BY PREJUDICIAL HEARSAY

The Presentence Report and Statement of Reasons contained prejudicial assertions—for example, labeling Defendant as a “sovereign citizen”—that were never proven, admitted into evidence, or subject to cross-examination. Courts cannot base convictions on unsworn, untested assertions. Reliance on such prejudicial hearsay undermines the voluntariness and fairness of the plea, rendering it constitutionally infirm.

POINT VI – REMEDY

Given that:

1. The statutory elements of *N.J. STAT. ANN. § 2C:12-1(b)(7)* were not satisfied, as no purposeful or knowing attempt to cause significant bodily injury was proven;
2. The prosecution arose from a civil wage dispute, properly governed by the Contractors' Registration Act and Wage Payment Law, not the Criminal Code;
3. The plea was the product of coercive pretrial detention and thus involuntary, contrary to N.J. Ct. R. 3:9-2 and *Boykin v. Alabama*, 395 U.S. 238 (1969); and
4. The State violated its discovery obligations under *N.J. Ct. R. 3:13-3* and *Brady v. Maryland*, 373 U.S. 83 (1963), and relied on prejudicial hearsay in violation of *Napue v. Illinois*, 360 U.S. 264 (1959);

Defendant's guilty pleas and resulting convictions under Indictments 22-09-01413-I (*Aggravated Assault*, N.J. STAT. ANN. § 2C:12-1(b)(7)) and 22-10-01440-I (*Terroristic Threats*, N.J. STAT. ANN. § 2C:12-3(a)) must be vacated pursuant to N.J. Ct. R. 3:21-1 to correct manifest injustice, and both indictments must be dismissed with prejudice. Further, upon dismissal, the records of

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dtb

arrest and charge are expungeable by operation of law under N.J. STAT. ANN. § 2C:52-6(a), which mandates expungement following the dismissal of charges.

POINT VII – ALTERNATIVE RELIEF: DIRECTING THE OFFICE OF THE PUBLIC DEFENDER TO OBTAIN REMAINING RECORDS AND TRANSCRIPTS

While Defendant has obtained copies of the Judgments of Conviction and the Presentence Report, additional records are necessary for the Court's complete review. As a pro se litigant, Defendant lacks the institutional ability to secure certified transcripts and other official records. These materials include the plea and sentencing transcripts (critical for review under N.J. Ct. R. 3:9-2), discovery correspondence and retention logs regarding body-worn camera, dash-camera, and 911/CAD recordings (bearing on Brady obligations), and jail medical and movement logs corroborating the coercive conditions of confinement.

New Jersey law recognizes that indigent defendants are entitled to the assistance of the Office of the Public Defender in post-conviction proceedings. See N.J. Ct. R. 3:22-6(b). The OPD has the authority and the administrative infrastructure to obtain these records and to ensure

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL PART
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STATE OF NEW JERSEY, Plaintiff, Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

PROPOSED ORDER TO VACATE PLEA AND DISMISS INDICTMENTS

PROPOSED ORDER VACATING PLEA, DISMISSING INDICTMENTS, AND DIRECTING EXPUNGEMENT

This matter having been opened to the Court by Devon Tyler Barber, Defendant *pro se, sui
juris*, by way of *Notice of Motion to Vacate Plea and Dismiss Indictments* pursuant to R. 3:21-1,
together with supporting Certification, Memorandum of Law, and Proposed Order; and the Court
having considered the submissions and the arguments of the parties; and for good cause shown;

IT IS on this _____, 2025, ORDERED as follows:

1. Defendant's guilty pleas in Indictment Nos. 22-09-01413-I and 22-10-01440-I are hereby
VACATED pursuant to R. 3:21-1.
2. Both indictments, 22-09-01413-I and 22-10-01440-I, are hereby **DISMISSED WITH
PREJUDICE**.
3. Pursuant to N.J. STAT. ANN. § 2C:52-6(a), the Court hereby **DIRECTS** the automatic
expungement of all records and information relating to Defendant's arrest,
detention, and these proceedings, without cost to Defendant.

4. The Clerk of the Court shall transmit certified copies of this Order to the appropriate law enforcement agencies, correctional facilities, and the New Jersey State Police Records Bureau for compliance.
5. Any other relief requested but not expressly granted herein is **DENIED**.
6. In the alternative to immediate vacatur and dismissal, the Office of the Public Defender is directed to obtain and produce the plea and sentencing transcripts, discovery correspondence regarding body-worn/dash-camera/911/CAD recordings, and jail medical and movement logs, and the matter is scheduled for an evidentiary hearing pursuant to R. 3:22-10.

Hon. _____, J.S.C.

Judge of the Superior Court

Form of Order Respectfully Submitted by:

BY: Devon Tyler, A.R.R. X(T)

Devon Tyler Barber

Defendant, pro se, sui juris

Dated: AUGUST 26th, 2025 A.D.

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

v.

DEVON TYLER BARBER,
Defendant.

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

INTRODUCTION

This addendum highlights a **single dispositive fact**: the aggravated assault conviction under *N.J. STAT. ANN. § 2C:12-1(b)(7)* cannot stand because the State's own **Presentence Report (PSR)** confirms that Defendant complied with police orders and **never used or attempted to use** the alleged “*crowbar*” as a weapon.

STATUTORY REQUIREMENT

N.J. STAT. ANN. § 2C:12-1(b)(7) requires proof that a defendant **purposely or knowingly attempted to cause significant bodily injury**. “**Significant bodily injury**” is defined as a

temporary loss of bodily function or impairment (N.J. STAT. ANN. § 2C:11-1(d)). Purposeful or knowing attempt is the required mental state. Recklessness is insufficient. (State v. Thomas, 187 N.J. 119 (2006)).

STATE'S OWN RECORD

Exhibit A, the Presentence Report (PSR), dated December 27, 2022, expressly records:

"When officers exited their vehicle, they ordered Defendant to drop the crowbar, to which he complied."

This statement is taken directly from the State's own official record. It is undisputed, and it establishes that Defendant immediately complied with police orders. The crowbar was never brandished or used as a weapon, and no evidence exists of any crowbar-related injury to the complainant.

To the extent the State has relied on untested assertions beyond this record, such reliance constitutes inadmissible hearsay and prejudicial labeling, not competent evidence. In truth, the tool was carried only to deter a hostile mob that had destroyed Defendant's property and killed his exotic pets. The PSR itself eliminates any basis for alleging unlawful possession or attempted use of the crowbar, rendering the aggravated assault conviction unsupportable.

LEGAL CONSEQUENCE

The record demonstrates **no unlawful use of the crowbar**. Defendant immediately complied with police orders to drop the tool, negating any allegation of brandishing or use as a weapon. The indictment originally charged two weapons offenses—*N.J. STAT. ANN. § 2C:39-4(d)* and

2C:39-5(d)—yet both were dismissed as part of the plea, confirming that the State could not sustain them.

With the alleged “weapon” eliminated, there is likewise **no purposeful attempt** to cause significant bodily injury. The only reported injury was the complainant’s ankle injury from stumbling during the incident—an injury that was self-inflicted, not caused by Defendant. No evidence shows any act taken with the requisite purposeful or knowing intent.

At most, the facts could support a simple assault under *N.J. STAT. ANN. § 2C:12-1(a)(1)*, a disorderly persons offense. They cannot, under any construction of the record, support aggravated assault in the third degree under *N.J. STAT. ANN. § 2C:12-1(b)(7)*.

DUE PROCESS IMPACT

The plea was constitutionally defective because it lacked the factual basis required by *N.J. Ct. R. 3:9-2*, which obligates the court to determine that a plea is supported by competent facts establishing each statutory element. Here, the aggravated assault conviction under *N.J. STAT. ANN. § 2C:12-1(b)(7)* rested on allegations of crowbar use and intent to inflict significant bodily injury—yet the Presentence Report, the State’s own official record, confirms that Defendant immediately complied with police orders and never used or attempted to use the crowbar as a weapon.

A plea unsupported by the statutory elements is void and constitutes manifest injustice under *N.J. Ct. R. 3:21-1*. To allow the conviction to stand would sanction punishment based on hearsay, speculation, and prejudicial assertions rather than admissible evidence. Where the State’s own record affirmatively disproves the factual basis for conviction, due process demands that the plea be vacated.

CONCLUSION

Because the crowbar was never used or attempted to be used, and because the complainant's injury was self-inflicted, the conviction under *N.J. STAT. ANN. § 2C:12-1(b)(7)* rests on facts that fail to satisfy the statute's elements. Likewise, the concurrent plea to *N.J. STAT. ANN. § 2C:12-3(a)* (Terroristic Threats) arose not from any genuine threat, but from a property sign intended to deter potential theft. Both convictions are unsupported by competent evidence and violate due process.

Accordingly, Defendant respectfully requests that this Court:

1. **Vacate Defendant's guilty pleas and resulting convictions under *N.J. STAT. ANN. § 2C:12-1(b)(7)* (*Aggravated Assault, 3rd degree*) and *N.J. STAT. ANN. § 2C:12-3(a)* (*Terroristic Threats, 3rd degree*);**
2. **Dismiss both indictments with prejudice; and**
3. **Grant such other and further relief as the Court deems just and proper.**

I certify that the foregoing statements made by me are true.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully asserted and demanded as of right,
without prejudice and without waiver of any rights.

BY: Devon Tyler, X/DT, A.R.R.

Devon Tyler Barber

Defendant, pro se, *sui juris* (pending advisory counsel)

Date: 08/26/2025

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

CERTIFICATION OF SERVICE

I, Devon Tyler Barber, certify as follows:

1. On August 26th, 2025, I electronically filed the foregoing motion papers through the New Jersey Judiciary Electronic Document Submission (JEDS) system.
2. On the same day, I served a true and complete copy of the motion papers on the following party:

Atlantic County Prosecutor's Office
4997 Unami Boulevard
Mays Landing, NJ 08330

Certified Mail (R.R.R.)

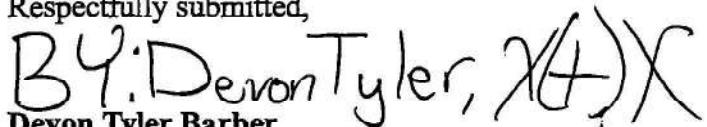
Regular Mail pursuant to R. 1:5-2

Hand Delivery

Electronic Mail

3. I certify that the foregoing statements made by me are true. **I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.**
(N.J. Ct. R. 1:4-4(b))

Respectfully submitted,


Devon Tyler Barber

Defendant, pro se, sui juris (pending advisory counsel)

Dated: AUGUST 26th A.D. 2025

27th
JTB

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

TO: Atlantic County Prosecutor's Office at 4997 Unami Boulevard, Mays Landing, NJ 08330

PLEASE TAKE NOTICE THAT on the first available motion date, the undersigned, **Devon Tyler Barber, pro se, sui juris (pending advisory counsel)** shall move before the Superior Court, Criminal Division, Atlantic County, for an Order:

1. Vacating Defendant's plea under **Rule 3:21-1** (plea withdrawal) or **Rule 3:22 (PCR)** to correct manifest injustice;
2. Dismissing Indictments **22-09-01413-I** and **22-10-01440-I** with prejudice;
3. Compelling the State to produce discovery under **Rule 3:13-3**, Brady, and related authority;
4. Ordering expungement pursuant to **N.J.S.A. 2C:52-6(a)** upon dismissal;
5. Granting such other relief as the Court deems just.

Respectfully asserted and demanded as of right, without prejudice and without waiver of any rights.

Submitted by: Xd(T)bX, Devon Tyler A.R. Date: AUGUST 23rd, 2025 A.D.
Devon Tyler Barber
Defendant, pro se, sui juris (pending advisory counsel)

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

CERTIFICATION OF DEVON TYLER BARBER

I, Devon Tyler Barber, certify as follows:

1. Between **June 3 and July 11, 2022**, I resided and worked at **1525 W. Aloe Street, Egg Harbor City** under a pay-per-job agreement with **Joseph Hardemon Jr.**, trading as **Joe's Painting & Renovations**.
2. Mr. Hardemon was a **Registered NJ Home Improvement Contractor**. He confirmed in **text messages** that payment was owed and repeatedly promised to pay. Those texts are **party admissions (N.J.R.E. 803(b)(1))** and **authenticable (N.J.R.E. 901)**.
3. Despite his assurances, **I was never paid**. When I sought to recover property and wages, my phone was taken and evidence lost.
4. On **July 11, 2022**, before I arrived, the Hardemon family had **already contacted police** and tracked my location via **Snapchat**.
5. Upon arrival, I was mocked and provoked; my **aquariums were smashed** and my **exotic pets were killed**, conduct prohibited by **N.J.S.A. 4:22-17**.
6. **Joseph Hardemon's ankle injury** occurred during this destruction — not from any purposeful assault by me.
7. I recall only a single strike (slap or closed fist). I was **not in control of my faculties, could not speak coherently, and never intended significant harm**.

8. The **Presentence Report (PSR)** itself states: "*Officers ordered defendant to drop the crowbar, to which he complied.*" I never brandished or used it unlawfully.
9. I was detained ~108 days, including ~45 in solitary confinement, before entering a plea. The **Judgments of Conviction** reflect this exact jail credit.
10. Ultimately, I pled guilty to **N.J.S.A. 2C:12-1(b)(7) (Aggravated Assault, 3rd degree)** under **Indictment 22-09-01413-I**, with other counts — including two weapons charges, simple assault, and resisting — all **dismissed**. A concurrent plea to **N.J.S.A. 2C:12-3(a) (Terroristic Threats)** under **22-10-01440-I** followed.
11. The PSR and Statement of Reasons contain **untested prejudicial assertions** ("sovereign citizen," "harassing communications") that were never admitted into evidence and unfairly colored the record.
12. This entire conflict arose from a **civil wage dispute**, not a criminal scheme.

I certify that the foregoing statements made by me are true.

I am aware that if any of the foregoing statements made by me are willfully false,

I am subject to punishment.

Respectfully asserted and demanded as of right, without prejudice and without waiver of any rights.

BY: Yd(T)R, Devon Tyler, A.R.R.

Devon Tyler Barber

Defendant, pro se, sui juris (pending advisory counsel)

Date: AUGUST 23RD, 2025 A.D.

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

MEMORANDUM OF LAW

POINT I – THE PLEA MUST BE VACATED UNDER RULE 3:21-1 (Manifest Injustice)

Rule 3:21-1 authorizes this Court to permit withdrawal of a guilty plea after sentencing “to correct a manifest injustice.” In determining whether manifest injustice exists, the Court must apply the four factors set forth in *State v. Slater*, 198 N.J. 145 (2009). Each factor weighs heavily in Defendant’s favor.

1. Colorable Claim of Innocence

The Presentence Report records compliance with police orders (“drop the crowbar”). Joseph Hardemon’s ankle injury was self-inflicted during the destruction of property, not caused by Defendant. Defendant admitted only a single strike without intent. The statutory elements of *N.J.S.A. 2C:12-1(b)(7)* are not met.

2. Reasons for Withdrawal

Defendant endured approximately 108 days of coercive detention, including 45 days in solitary confinement, before entering a plea. Such extreme confinement rendered Defendant unable to voluntarily or intelligently enter a guilty plea, in violation of *Boykin v. Alabama*, 395 U.S. 238 (1969).

3. Existence of a Plea Bargain

The plea followed dismissal of inflated charges, including two weapons counts. While styled as a "bargain," the plea was the product of coercion and overcharging, which nullifies its voluntariness and fairness.

4. Prejudice to the State

Vacating the plea will not unduly prejudice the State. All relevant evidence is institutional in nature—police reports, 911/CAD records, body-worn or dash-camera video—and should already exist. No reliance interest is undermined by correcting this injustice. **Accordingly, all four Slater factors weigh in favor of vacating Defendant's plea.** All four factors support vacatur.

POINT II – STATUTORY ELEMENTS OF 2C:12-1(b)(7) ARE NOT MET

The aggravated assault conviction under *N.J.S.A. 2C:12-1(b)(7)* cannot stand because the statutory elements were not satisfied. That statute requires proof that a defendant **purposely or knowingly attempted to cause significant bodily injury.** "Significant bodily injury" is specifically defined in *N.J.S.A. 2C:11-1(d)* as a *temporary loss of the function of any bodily member or organ, or a temporary loss of any one of the five senses.*

No such injury occurred here. The Presentence Report (PSR), dated December 27, 2022, states: "*When officers exited their vehicle, they ordered defendant to drop the crowbar, to which*

he complied." This is the State's own record and it confirms Defendant's immediate compliance with police orders. The complainant's ankle injury was self-inflicted when he stumbled during the chaos. No evidence shows that Defendant purposely or knowingly attempted to cause such injury, nor that any "temporary loss of function" ever resulted.

Equally important, Defendant was not in a mental state to form purposeful or knowing intent. At the time, he was suffering from acute post-traumatic stress, betrayal by those around him, and extreme emotional distress. He recalls being unable to speak coherently and not in control of his faculties. New Jersey law is clear that **purposeful or knowing attempt** is the required mens rea for this offense, and that **recklessness is insufficient**. *State v. Thomas*, 187 N.J. 119, 130 (2006). Defendant's impaired condition further negates any inference of purposeful or knowing conduct.

Finally, under *N.J.S.A. 2C:5-1* (the general attempt statute), the State was required to prove that Defendant took a **substantial step** toward causing significant bodily injury with the requisite mental state. No such substantial step occurred. The crowbar was never brandished or used, weapons charges were dismissed, and compliance with police orders was immediate. Mere speculation or the fact that the complainant fell cannot satisfy the statutory threshold.

Accordingly, the conviction cannot rest on *N.J.S.A. 2C:12-1(b)(7)*. At most, the facts could support simple assault under *N.J.S.A. 2C:12-1(a)(1)*—a disorderly persons offense—but not aggravated assault in the third degree.

POINT III – THE MATTER ORIGINATED AS A CIVIL WAGE DISPUTE

This prosecution arose from what was fundamentally a civil wage dispute. Joseph Hardemon was a registered New Jersey Home Improvement Contractor under the Contractors'

Registration Act (*N.J.S.A. 56:8-136 et seq.*). Text messages confirm that payment for Defendant's labor was promised, rendering the dispute enforceable under the New Jersey Wage Payment Law (*N.J.S.A. 34:11-4.1*). Criminalizing a civil dispute over unpaid wages represents a misuse of prosecutorial authority and a distortion of criminal law.

POINT IV – DISCOVERY VIOLATIONS MANDATE RELIEF

Defendant was entitled under *Rule 3:13-3* to all exculpatory and relevant evidence. In *State v. Stein*, 225 N.J. 582 (2016), the New Jersey Supreme Court held that municipal defendants are entitled to dashcam and body-worn camera (BWC) recordings; indicted defendants have no lesser right. Moreover, Attorney General Directive 2021-5 requires patrol officers to wear BWCs and to retain recordings for at least 180 days, and longer when case-related.

Yet Galloway authorities claimed that "only car video exists." Either the BWC evidence exists and was withheld in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), or it was destroyed despite mandatory retention rules, constituting spoliation. Furthermore, the State's reliance on incomplete or misleading evidence runs afoul of *Napue v. Illinois*, 360 U.S. 264 (1959), which forbids convictions based on false testimony or material omissions. These discovery failures alone warrant relief.

POINT V – PLEA WAS TAINTED BY PREJUDICIAL HEARSAY

The Presentence Report and Statement of Reasons contained prejudicial assertions—for example, labeling Defendant as a "sovereign citizen"—that were never proven, admitted into evidence, or subject to cross-examination. Courts cannot base convictions on unsworn, untested

assertions. Reliance on such prejudicial hearsay undermines the voluntariness and fairness of the plea, rendering it constitutionally infirm.

POINT VI – REMEDY

Given that:

1. The statutory elements of *N.J.S.A. 2C:12-1(b)(7)* were not satisfied, as no purposeful or knowing attempt to cause significant bodily injury was proven;
2. The prosecution arose from a civil wage dispute, properly governed by the Contractors' Registration Act and Wage Payment Law, not the Criminal Code;
3. The plea was the product of coercive pretrial detention and thus involuntary, contrary to *Rule 3:9-2* and *Boykin v. Alabama*, 395 U.S. 238 (1969); and
4. The State violated its discovery obligations under *Rule 3:13-3* and *Brady v. Maryland*, 373 U.S. 83 (1963), and relied on prejudicial hearsay in violation of *Napue v. Illinois*, 360 U.S. 264 (1959);

Defendant's guilty pleas and resulting convictions under Indictments 22-09-01413-I (*Aggravated Assault*, N.J.S.A. 2C:12-1(b)(7)) and 22-10-01440-I (*Terroristic Threats*, N.J.S.A. 2C:12-3(a)) must be vacated pursuant to *Rule 3:21-1* to correct manifest injustice, and both indictments must be dismissed with prejudice. Further, upon dismissal, the records of arrest and charge are expungeable by operation of law under N.J.S.A. 2C:52-6(a), which mandates expungement following the dismissal of charges.

Respectfully asserted and demanded as of right, without prejudice and without waiver of any rights.

BY: Devon Barber, Devon Tyler, A.R.R.

Devon Tyler Barber

Defendant, pro se, sui juris (pending advisory counsel)

Date: AUGUST 23RD, 2025 A.D.

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

v.

DEVON TYLER BARBER,
Defendant.

PROPOSED ORDER TO VACATE PLEA AND DISMISS INDICTMENTS

PROPOSED ORDER

IT IS on this ____ day of _____, 2025, ORDERED that:

1. Defendant's pleas under Indictments 22-09-01413-I and 22-10-01440-I are **withdrawn and vacated** pursuant to **Rule 3:21-1**.
2. All counts in said indictments are **dismissed with prejudice**.
3. The State shall produce within 14 days all discovery under **Rule 3:13-3**, including 911/CAD, BWC, MVR, police reports, photographs, use-of-force forms, jail/plea records, and witness statements.
4. Records of arrest and charge are **expunged** pursuant to **N.J.S.A. 2C:52-6(a)**.
5. Such further relief as the Court deems just.

J.S.C.

Submitted by: Xd(Tb)F, Devon Tyler, A.R.R. Date: AUGUST 23RD, 2025 A.D.

Devon Tyler Barber, Defendant, pro se, sui juris (pending advisory counsel)

STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

STATE OF NEW JERSEY,
Plaintiff,

v.

DEVON TYLER BARBER,
Defendant.

Indictment Nos.: 22-09-01413-I; 22-10-01440-I
Criminal Action

NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

INTRODUCTION

This addendum highlights a single dispositive fact: the aggravated assault conviction under *N.J.S.A. 2C:12-1(b)(7)* cannot stand because the State's own Presentence Report (PSR) confirms that Defendant complied with police orders and **never used or attempted to use** the alleged “*crowbar*” as a weapon.

STATUTORY REQUIREMENT

N.J.S.A. 2C:12-1(b)(7) requires proof that a defendant **purposely or knowingly attempted to cause significant bodily injury**. “**Significant bodily injury**” is defined as *a temporary loss of*

bodily function or impairment (N.J.S.A. 2C:11-1(d)). Purposeful or knowing attempt is the required mental state. Recklessness is insufficient. (State v. Thomas, 187 N.J. 119 (2006)).

STATE'S OWN RECORD

The Presentence Report (PSR), dated December 27, 2022, expressly records:

"When officers exited their vehicle, they ordered Defendant to drop the crowbar, to which he complied."

This statement is taken directly from the State's own official record. It is undisputed, and it establishes that Defendant immediately complied with police orders. The crowbar was never brandished or used as a weapon, and no evidence exists of any crowbar-related injury to the complainant.

To the extent the State has relied on untested assertions beyond this record, such reliance constitutes inadmissible hearsay and prejudicial labeling, not competent evidence. In truth, the tool was carried only to deter a hostile mob that had destroyed Defendant's property and killed his exotic pets. The PSR itself eliminates any basis for alleging unlawful possession or attempted use of the crowbar, rendering the aggravated assault conviction unsupportable.

LEGAL CONSEQUENCE

The record demonstrates **no unlawful use of the crowbar**. Defendant immediately complied with police orders to drop the tool, negating any allegation of brandishing or use as a weapon. The indictment originally charged two weapons offenses—*N.J.S.A. 2C:39-4(d)* and *2C:39-5(d)*—yet both were dismissed as part of the plea, confirming that the State could not sustain them.

With the alleged “weapon” eliminated, there is likewise **no purposeful attempt** to cause significant bodily injury. The only reported injury was the complainant’s ankle injury from stumbling during the incident—an injury that was self-inflicted, not caused by Defendant. No evidence shows any act taken with the requisite purposeful or knowing intent.

At most, the facts could support a simple assault under *N.J.S.A. 2C:12-1(a)(1)*, a disorderly persons offense. They cannot, under any construction of the record, support aggravated assault in the third degree under *N.J.S.A. 2C:12-1(b)(7)*.

DUE PROCESS IMPACT

The plea was constitutionally defective because it lacked the factual basis required by *Rule 3:9-2*, which obligates the court to determine that a plea is supported by competent facts establishing each statutory element. Here, the aggravated assault conviction under *N.J.S.A. 2C:12-1(b)(7)* rested on allegations of crowbar use and intent to inflict significant bodily injury—yet the Presentence Report, the State’s own official record, confirms that Defendant immediately complied with police orders and never used or attempted to use the crowbar as a weapon. A plea unsupported by the statutory elements is void and constitutes manifest injustice under *Rule 3:21-1*. To allow the conviction to stand would sanction punishment based on hearsay, speculation, and prejudicial assertions rather than admissible evidence. Where the State’s own record affirmatively disproves the factual basis for conviction, due process demands that the plea be vacated.

CONCLUSION

Because the crowbar was never used or attempted to be used, and because the complainant’s injury was self-inflicted, the conviction under *N.J.S.A. 2C:12-1(b)(7)* rests on facts that fail to

satisfy the statute's elements. Likewise, the concurrent plea to *N.J.S.A. 2C:12-3(a)* (Terroristic Threats) arose not from any genuine threat, but from a property sign intended to deter potential theft. Both convictions are unsupported by competent evidence and violate due process.

Accordingly, Defendant respectfully requests that this Court:

1. **Vacate Defendant's guilty pleas and resulting convictions under *N.J.S.A. 2C:12-1(b)(7) (Aggravated Assault, 3rd degree)* and *N.J.S.A. 2C:12-3(a) (Terroristic Threats, 3rd degree)*;**
2. **Dismiss both indictments with prejudice; and**
3. **Grant such other and further relief as the Court deems just and proper.**

I certify that the foregoing statements made by me are true.

I am aware that if any of the foregoing statements made by me are willfully false,

I am subject to punishment.

Respectfully asserted and demanded as of right,

without prejudice and without waiver of any rights.

BY: Xd(TbR, Devon Tyler, A.R.R.

Devon Tyler Barber

Defendant, pro se, sui juris (pending advisory counsel)

Date: AUGUST 23 RD, 2025 A.D.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
Atlantic County, New Jersey

STATE OF NEW JERSEY,

Plaintiff,

v.

Docket Nos.: ATL-22-002313

ATL-22-002292

DEVON TYLER BARBER,

Defendant.

**NOTICE OF MOTION TO (A) COMPEL STATE'S ANSWER OR PROCEED ON THE
PAPERS; (B) ASSIGN COUNSEL; AND (C) SET RETURN DATE AND DECISION
TIMELINE (R. 3:22-6, R. 3:22-9, R. 3:22-10, AND R. 3:22-11)**

TO: Atlantic County Prosecutor's Office
4997 Unami Blvd., Suite 2
Mays Landing, New Jersey 08330

Office of the Public Defender – Atlantic Region
5914 Main Street, Suite 201
Mays Landing, New Jersey 08330

John W. Tumelty, Esq. (notice to prior counsel under R. 3:22-13)
Law Offices of John W. Tumelty
539 S. Shore Road
Marmora, New Jersey 08223
and
1616 Pacific Avenue, Suite 318
Atlantic City, New Jersey 08401

PLEASE TAKE NOTICE that on a return date to be set by the Court (oral argument requested),
Defendant, appearing pro se and respectfully requesting assignment of counsel pursuant to R.
3:22-6(a), will move for an Order that:

1. Grants post-disposition relief on the papers due to the Atlantic County Prosecutor's failure to timely serve and file an Answer to Defendant's consolidated PCR petitions, which were served via JEDS on May 4, 2025 (original PCR filing date triggering 60-day deadline under **R. 3:22-9**, expiring July 3, 2025), no later than July 3, 2025 (deadline already passed; State in procedural default), pursuant to **R. 3:22-9**, or, absent good cause for any further delay, directs that the Court proceed on the papers as unopposed at the return date, with any uncontested factual assertions deemed admitted for purposes of the motion;
2. Assigns the **Office of the Public Defender** forthwith to represent Defendant on this first PCR pursuant to **R. 3:22-6(a)**, as no waiver of counsel has been made;
3. Sets a **firm return date** and a decision timetable consistent with **R. 3:22-11**; and
4. Grants such other and further relief as is just and equitable, including vacatur of the pleas and convictions with dismissal of all charges with prejudice, or, in the alternative, vacatur and an order setting the matters for new trial.

PLEASE TAKE FURTHER NOTICE that in support of this motion, Defendant relies upon the annexed **Certification** pursuant to **R. 1:4-4**, the accompanying **Memorandum of Law**, the **Proposed Orders**, and the **Exhibit Index**. Oral argument is respectfully requested.

Dated: August 11, 2025

Respectfully submitted,


DEVON TYLER BARBER
Defendant, pro se (requesting assignment of counsel)
325 East Jimmie Leeds Road, Suite 7-333
Galloway Township, New Jersey
(609) 665-9350
DTB33@PM.mc / DEV@Tiller.Earth

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**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
Atlantic County, New Jersey**

STATE OF NEW JERSEY, :

Plaintiff, :

v. :

: **Docket Nos.: ATL-22-002313**

: **ATL-22-002292**

DEVON TYLER BARBER, :

Defendant. :

**CERTIFICATION OF DEVON TYLER BARBER IN SUPPORT OF MOTION TO
COMPEL ANSWER, ASSIGN COUNSEL, SET RETURN DATE, AND GRANT POST-
CONVICTION RELIEF (R. 1:4-4)**

I, **DEVON TYLER BARBER**, of full age, certify as follows:

1. I am the defendant in the above-captioned matters and make this Certification in support of my motion to compel the State's Answer pursuant to R. 3:22-9, assign counsel under R. 3:22-6(a), set a return date and decision timetable under R. 3:22-11, and grant post-conviction relief.
2. I am currently free of all forms of custody, supervision, probation, or parole. I am not participating in any supervision programs.
3. On the following dates, I filed petitions, motions, and supplements in these matters via the Judiciary Electronic Document Submission (JEDS) system:

ATL-22-002313

- 05/04/2025 – PCR Petition (3344016)
- 05/07/2025 – PCR Petition (3352125)

- 05/15/2025 – Motion (3370560)
- 05/15/2025 – Motion (3369597)
- 05/16/2025 – PCR Supplement (3370700)
- 05/18/2025 – PCR Supplement (3373818)
- 05/21/2025 – PCR Supplement (3381971)
- 05/22/2025 – PCR Supplement (3384892)
- 05/23/2025 – PCR Supplement (3386111)
- 06/18/2025 – PCR Supplement (3441478)
- 07/27/2025 – Consolidated PCR Petition (3522215)

ATL-22-002292

- 06/18/2025 – PCR Petition (3438833)
- 07/27/2025 – Consolidated PCR Petition (3522209)

True copies of the JEDS filing/eCourts docket activity logs are attached as **Exhibit A**.

4. As of August 10, 2025, no Answer by the Atlantic County Prosecutor appears in eCourts for either docket in response to the May 4, 2025 (original PCR filing date triggering 60-day deadline under R. 3:22-9, expiring July 3, 2025) consolidated petitions.

5. I have not waived assignment of counsel. This is my first petition for post-conviction relief in each docket, and I request immediate assignment of the Office of the Public Defender pursuant to R. 3:22-6(a).

6. My claims for relief include, but are not limited to:

a. Ineffective Assistance of Counsel under *State v. Fritz*, 105 N.J. 42 (1987) and *Strickland v. Washington*, 466 U.S. 668 (1984):

- Failure to investigate or obtain readily available employment, W-2, and contract records

- showing the matter was a civil wage/contract dispute rather than criminal conduct;
- Failure to seek a second detention hearing;
- Failure to interview or present defense witnesses;
- Pursuing a plea-first approach without developing exculpatory facts.

b. Conflict of Interest under State v. Norman, 151 N.J. 5 (1997):

- Counsel's professional rapport with the prosecuting office materially limited his loyalty and strategic choices to my prejudice.

c. Brady/Giglio Violation under State v. Knight, 145 N.J. 233 (1996):

- Material, impeaching information concerning a key accuser's criminal history and credibility was not disclosed or used.

d. Involuntary Plea under State v. Bellamy, 178 N.J. 127 (2003):

- Coercive jail conditions, including punitive isolation following my request to make a phone call during intake, created undue pressure to accept a plea rather than litigate my innocence.

7. Notice to my prior counsel, John W. Tumelty, Esq., was served pursuant to R. 3:22-13 by

certified mail, return receipt requested, at both known addresses:

- 539 S. Shore Road, Marmora, NJ 08223; and
- 1616 Pacific Avenue, Suite 318, Atlantic City, NJ 08401.

Proof of mailing will be filed upon return of the receipts.

8. I attach the following exhibits in support:

- **Exhibit A:** JEDS receipts and eCourts docket activity logs;

- **Exhibit B:** Correspondence to OPD requesting assignment;
- **Exhibit C–G:** Additional evidence supporting the claims in paragraph 6.

9. I authorize the Court or any agency to obtain any relevant records referenced herein directly from the originating court, agency, or custodian.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: August 11, 2025

BY:  ARR
DEVON TYLER BARBER
325 East Jimmie Leeds Road, Suite 7-333
Galloway Township, New Jersey
(609) 665-9350
DTB33@PM.me

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART

Atlantic County, New Jersey

State of New Jersey,

Plaintiff,

v.

Devon Tyler Barber,

Defendant.

Indictment/Accusation Nos.: ATL-22-002313 and ATL-22-002292

Docket Nos.: (as assigned by the Criminal Division Manager)

**[PROPOSED] ORDER TO COMPEL ANSWER, ASSIGN COUNSEL, AND SET
RETURN DATE / DECISION TIMETABLE**

This matter having been opened to the Court by Defendant Devon Tyler Barber, pro se (requesting assignment of counsel), upon notice to the Atlantic County Prosecutor, the Office of the Public Defender – Atlantic Region, and prior counsel pursuant to R. 3:22-13, seeking an Order (a) compelling the State to file an Answer under R. 3:22-9, (b) assigning counsel under R. 3:22-6(a), and (c) setting a return date and decision timetable under R. 3:22-11; and the Court having reviewed the Notice of Motion, Certification with attached Exhibits A–G, Memorandum of Law, and for good cause shown,

IT IS on this ___ day of _____, 2025, ORDERED that:

1. The Atlantic County Prosecutor shall file and serve an Answer to Defendant's consolidated post-conviction relief petitions on or before September 25, 2025, in accordance with **R. 3:22-9**.
 - a. Absent a showing of good cause for any further delay, the Court will proceed on the scheduled return date on the papers as unopposed, and factual assertions in Defendant's certification not specifically controverted shall be treated as admitted solely for purposes of this motion.
2. The Office of the Public Defender – Atlantic Region is assigned forthwith to represent Defendant in these first PCR proceedings pursuant to **R. 3:22-6(a)**, with the assignment effective immediately upon entry of this Order.
3. The Court hereby sets the return date for oral argument on Defendant's motion as:

Date: _____, 2025

Time: _____ a.m./p.m.

Place: Law Division – Criminal Part, Atlantic County, Atlantic County Civil Courthouse, 1201 Bacharach Blvd., Atlantic City, NJ 08401.

4. Consistent with **R. 3:22-11**, the Court shall issue a final determination within 60 days after the hearing or, if no hearing is held, within 60 days after the last submission by any party.
5. Such other and further relief as the Court deems just and equitable is hereby granted.

SO ORDERED:

J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
ATLANTIC COUNTY

State of New Jersey,

Plaintiff,

v.

Devon Tyler Barber,

Defendant.

Indictment/Accusation Nos.: ATL-22-002313 and ATL-22-002292

Docket Nos.: (as assigned by the Criminal Division Manager)

[PROPOSED] FINAL ORDER ON POST-CONVICTION RELIEF

This matter having been opened to the Court by Defendant Devon Tyler Barber on petitions for post-conviction relief, and the Court having considered the pleadings, supporting certifications and exhibits, the applicable law, and the arguments of counsel (or the defendant, if self-represented), and for good cause shown,

IT IS on this ____ day of _____, 2025, ORDERED that:

1. Defendant's pleas and resulting judgments of conviction in Indictment/Accusation Nos. ATL-22-002313 and ATL-22-002292 are VACATED.

2. The charges in both matters are DISMISSED WITH PREJUDICE on grounds of constitutional violations resulting in incurable prejudice to Defendant's rights to due process, effective assistance of counsel, and a fair trial.

OR, in the alternative:

3. Defendant's pleas and convictions are VACATED and both matters are restored to the trial calendar for further proceedings.
4. The Criminal Division Manager shall schedule a status conference on or before _____, 2025, at _____ a.m./p.m., in the Law Division – Criminal Part, Atlantic County.
5. Any necessary orders for release or transport of Defendant shall issue forthwith.

SO ORDERED:

J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
Atlantic County, New Jersey

STATE OF NEW JERSEY, :
Plaintiff, :
: :
v. : Docket Nos.: ATL-22-002313
: : ATL-22-002292
DEVON TYLER BARBER, :
Defendant. :
-----:

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO COMPEL ANSWER,
ASSIGN COUNSEL, SET RETURN DATE, AND GRANT POST-CONVICTION RELIEF**

I. INTRODUCTION

Defendant, Devon Tyler Barber, has timely filed petitions for post-conviction relief (“PCR”) in both above-captioned matters, supported by sworn certifications and documentary exhibits. The petitions, motions, and supplements were filed between May 4, 2025 and May 4, 2025 (original PCR filing date triggering 60-day deadline under R. 3:22-9, expiring July 3, 2025) via the Judiciary Electronic Document Submission (“JEDS”) system. As of August 10, 2025, no Answer appears in eCourts for either docket. The State’s Answer is due no later than July 3, 2025 (deadline already passed; State in procedural default) pursuant to R. 3:22-9, absent a court order extending that time.

This motion requests: (1) an order compelling the State’s timely Answer or, failing that, proceeding on the unopposed record; (2) immediate assignment of the Office of the Public

Defender under **R. 3:22-6(a)**; (3) setting of a return date and decision timetable under **R. 3:22-11**; and (4) final relief on the merits—vacatur of the pleas and dismissal with prejudice, or, alternatively, vacatur and new trial.

II. ISSUES PRESENTED

1. Whether the State should be compelled under **R. 3:22-9** to file its Answer within the 60-day period or be barred from filing absent a showing of good cause, allowing the Court to proceed on the unopposed record.
2. Whether Defendant is entitled to immediate assignment of PCR counsel by the Office of the Public Defender pursuant to **R. 3:22-6(a)**.
3. Whether the petitions, as supported by sworn certification and exhibits, establish *prima facie* grounds for relief warranting either (a) vacatur of the pleas and dismissal with prejudice, or (b) vacatur and new trial under the standards in **State v. Fritz**, 105 N.J. 42 (1987); **State v. Preciose**, 129 N.J. 451 (1992); and related authorities.

III. GOVERNING LAW

- A. Time to Answer – R. 3:22-9** requires the prosecutor to file an answer within 60 days after service of the petition, unless otherwise ordered by the court. Where the State fails to respond within the prescribed time, the court may proceed to decide the matter on the existing record.
- B. Assignment of Counsel – R. 3:22-6(a)** For a first petition, the court “shall” assign counsel from the Office of the Public Defender unless the defendant elects to proceed *pro se*. This requirement is mandatory for an indigent defendant raising potentially meritorious claims.