

# Proposed Order to Show Cause

**SUPERIOR COURT OF NEW JERSEY – LAW DIVISION, ATLANTIC COUNTY**

**Indictment Nos. 22-09-01413-I & 22-10-01440-I**

State of New Jersey, Plaintiff

v.

Devon Tyler Barber, Defendant.

## **Proposed Order to Show Cause (Post-Conviction Relief)**

THIS MATTER having been opened to the Court by Devon Tyler Barber, Petitioner pro se, seeking post-conviction relief pursuant to *R. 3:22-1 et seq.*, and the Court having reviewed the Verified Petition, Certification, and supporting Memorandum of Law filed by Petitioner, and for good cause shown;

It is on this \_\_\_\_ day of \_\_\_\_\_, 2025, ORDERED that:

1. The Atlantic County Prosecutor (and/or Attorney General, if applicable) shall **SHOW CAUSE** before this Court on the \_\_\_\_ day of \_\_\_\_\_, 2025, at \_\_\_\_\_ a.m./p.m., or on a date fixed by the Court, **why the relief requested in Petitioner's Post-Conviction Relief (PCR) Petition should not be granted.**
2. The State shall file and serve a response to the PCR Petition on or before \_\_\_\_\_, 2025 (within \_\_\_\_ days of the entry of this Order to Show Cause), specifically addressing each of Petitioner's claims under *R. 3:22-2(a)-(c)*. The response shall include copies of any relevant portions of the record (plea forms, transcripts, etc.) not already provided by Petitioner.
3. An evidentiary hearing on the PCR Petition **shall be held** on \_\_\_\_\_, 2025 at \_\_\_\_\_ a.m./p.m., in courtroom \_\_\_, to resolve any material issues of fact, including

but not limited to: whether trial counsel's performance was deficient or affected by a conflict of interest, whether exculpatory evidence was withheld by the State, and whether Petitioner's guilty plea was knowing and voluntary. Petitioner shall be produced for the hearing, and counsel shall be appointed for Petitioner in advance of the hearing (if not already).

4. Pursuant to *R. 3:22-6(a)*, Petitioner having requested assignment of counsel and demonstrated potential merit in his petition, the Office of the Public Defender **shall appoint PCR counsel** to represent Petitioner henceforth on this Petition (if Petitioner is financially eligible). Appointed counsel shall promptly file a notice of appearance.
5. **No filing fee or transcript costs shall be assessed** against Petitioner for this PCR proceeding, as Petitioner has supplied the relevant portions of the record (and/or the court has determined that transcripts are not necessary to adjudicate the petition, or that audio recordings of the plea and sentencing have been provided in lieu of transcripts). The Court notes that the plea and sentencing proceedings were recorded digitally, and Petitioner has access to those recordings, satisfying the requirement of transcript review without further cost.
6. The Court finds that Petitioner has made a *prima facie* showing of entitlement to relief on certain claims, warranting the scheduling of a hearing under *Preciose* and *Rule 3:22-10(b)*. The specific factual issues to be addressed at the evidentiary hearing include, but are not limited to:
  - Trial counsel's alleged conflict of interest and its effect on the plea.
  - Discussions (or lack thereof) between trial counsel and Petitioner regarding available evidence and defenses.

- The conditions of Petitioner's pretrial confinement and their impact on his decision to plead.
- The content and potential impact of any evidence not disclosed to Petitioner prior to the plea (Brady material).
- Any other topic the Court deems relevant to the voluntariness of the plea or the validity of the convictions.

7. The relief Petitioner seeks includes vacating of the plea and convictions, and the Court will consider such relief at the hearing. (The probation department shall be notified of this Order.)

8. A copy of this Order to Show Cause, together with the PCR petition and supporting papers, shall be served on the Atlantic County Prosecutor's Office (PCR Unit) within \_\_\_\_\_ days of the date below. Service via the Judiciary Electronic Document Submission (JEDS) system to the Prosecutor is hereby authorized and deemed effective service. The Prosecutor shall promptly confirm receipt.

9. Petitioner is granted leave to reply to the State's submission, if any, by \_\_\_\_\_, 2025. The Court will then hear oral argument (and conduct the evidentiary hearing as ordered) on the return date.

IT IS SO ORDERED.

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

Date: \_\_\_\_\_

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