

1 Superior Court of New Jersey

2 Law Division, Criminal Part County of Atlantic

3 STATE OF NEW JERSEY

4 v. ,

5 DEVON T. BARBER

6 Docket No.: 22002313

7 **Petitioner's Motion for Post-Conviction Relief**

8 **Table of Contents**

9 1. Background and Procedural History — Pages 2-4

10 2. Certificate of Verification — Page 4

11 3. Guiding Principle — Page 5

12 4. Grounds for Post-Conviction Relief — Pages 6-9

13 a. Ineffective Assistance of Counsel — Page 6

14 b. Voluntariness of the Guilty Plea — Pages 6-7

15 c. Conflict of Interest and Bias — Page 7

16 d. Inhumane Conditions and Neglect — Page 7-8

17 e. Financial Harm Caused by Ineffectiveness — Pages 8-9

18 5. Motion for Issuance of Subpoenas — Pages 10-12

19 6. Request for Relief — Page 12

20 7. Conclusion — Page 12

21 8. Affidavit of Devon T. Barber in Support of this Petition — Pages 13-15

22 **Background and Procedural History**

23 I, **Devon T. Barber**, a man guided by principles of natural law and heritage, submit this Petition
 24 for Post-Conviction Relief pursuant to Rule 3:22 of the New Jersey Rules of Court. This petition
 25 represents an earnest pursuit of justice, seeking rectification of a wrongful conviction born from
 26 circumstances beyond my control, gross failures in legal representation, and the misuse of systemic
 27 authority by parties acting in concert with law enforcement, thereby violating fundamental legal
 28 and constitutional protections.

29 **Employment and Circumstances Leading to the Incident**

30 At the time of my arrest, I was employed by two contractors. My relationship with these contractors
 31 exemplifies the stark differences in how I was treated. For years, I worked diligently and faithfully
 32 for **Joe's Painting and Renovations**, owned by **Joseph Hardemon Jr. and Sr.**, and **NAC**
 33 **Custom Carpentry**, owned by **Nicholas Anthony of Galloway Township, New Jersey**.

- 34 • At **Joe's Painting and Renovations**, I was asked to live on their property for security and
 35 to rehabilitate a project behind schedule. Despite my efforts, **Joe failed to pay me for my**
 36 **labor**, retaliated with false accusations to damage my reputation, and escalated tensions to
 37 deflect accountability for his conduct.
- 38 • In contrast, Nick demonstrated fairness and respect in our working relationship. He ensured
 39 I was paid on time for my labor and even provided a Ford F-250 truck to support my work-
 40 related responsibilities. This stark contrast between employers underscores the exploitation
 41 and unjust treatment I endured while working for Joe. It also provides critical context for
 42 the events that escalated into confrontation and ultimately led to my conviction.

43 **The Incident and Arrest**

44 On **July 11, 2022**, Joe and his crew unlawfully removed my belongings from the home, discarding
45 them carelessly onto the lawn and driveway. When I left for work that day, the tank housing my
46 two cherished pets—a baby **Goliath bird-eater tarantula** I met in Oregon and traveled with, and
47 a lively **tree-climbing tarantula**—was intact and secure. Upon my return, I found the tank
48 deliberately broken on the driveway, killing both pets. This act of destruction was not only cruel
49 but represented a profound breach of trust and deliberate provocation.

50 Additionally, critical items—including my **iPhone X**, which contained **expressed agreements**
51 documented via text messages and **implied agreements** based on the nature of my prior work with
52 Joe—were either taken or destroyed. Other missing or damaged belongings included two **window**
53 **air conditioners** and an **electric lawn mower**, further illustrating the unlawful and retaliatory
54 nature of Joe's actions.

55 In the heat of the confrontation, I swung my fist at **Joe**, grazing his cheek. Joe fell and later claimed
56 that his **ankle injury** was caused by the fall. This minor physical contact, which stemmed directly
57 from Joe's provocation and unlawful conduct, became the basis for the **attempted assault** charge.
58 No other injuries were reported in the police investigation.

59 **Systemic Failures and Conflict of Interest**

60 My arrest and conviction were marred by systemic failures and profound conflicts of interest:

- 61 • **Bias in Investigation:** The arresting officers were members of a police department led by
62 my **stepfather**, whose personal relationship with me likely influenced their approach to the

case. Officers treated me with pity, assuming mental instability, and failed to conduct an impartial investigation.

- **Destruction of Evidence:** My iPhone X, which contained text messages documenting the implied agreement with Joe, was never returned or preserved as evidence, significantly impairing my ability to mount an effective defense.
- **Failure to Investigate Retaliation:** Defense counsel failed to present key facts about Joe's retaliatory conduct, the destruction of my property, and the context of the physical confrontation.

Inhumane Conditions in Custody

While in custody, I endured unspeakable conditions, including untreated scabies and bedbug infestations, despite my repeated pleas for medical attention. These inhumane conditions violated my constitutional rights under Article I, Paragraph 12 of the New Jersey Constitution and the Eighth Amendment of the U.S. Constitution, both of which prohibit cruel and unusual punishment. The neglect I experienced exacerbated my physical and emotional distress, underscoring the systemic failures that permeated my case.

Certificate of Verification

I, Devon T. Barber, affirm under penalty of perjury that the statements made in this Petition for Post-Conviction Relief are true and accurate to the best of my knowledge, information, and belief.

Signature: By: xD(T)Bx Printed Name: Devon T. Barber Date: 01/31/2025 A.D.

82 **Guiding Principle**

83 This case illustrates the profound miscarriage of justice I have endured. It is guided by the divine
84 principle articulated in **Isaiah 61:8** (Geneva Bible, 1560):
85 *"For I the Lord love judgment, I hate robbery for burnt offering; and I will direct their work in*
86 *truth, and I will make an everlasting covenant with them."*

87 Justice requires that deceit, exploitation, and provocation be exposed and rectified. This petition
88 seeks to restore integrity to the judicial process by addressing the wrongful conviction and the
89 systemic injustices that led to it.

90 Further, the words of **Micah 6:8** remind us of God's expectation for humanity:
91 *"He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do*
92 *justly, and to love mercy, and to walk humbly with thy God?"*

93 This scripture calls for fairness, compassion, and humility, all of which were absent in the
94 circumstances surrounding this case.

95 Finally, **Proverbs 21:15** speaks to the joy that justice brings:
96 *"It is joy to the just to do judgment: but destruction shall be to the workers of iniquity."*

97 This verse underscores the importance of pursuing righteousness and the eventual downfall of
98 those who engage in deceit and wrongdoing.

99 Together, these guiding principles affirm the petitioner's unwavering belief in divine justice and
100 truth as the ultimate foundation for the relief sought.

101 **Grounds for Post-Conviction Relief**

102 **A. Ineffective Assistance of Counsel**

103 a. The Sixth Amendment guarantees the right to effective legal representation. My
 104 counsel, John W. Tumelty, failed to meet the standards established in Strickland v.
 105 Washington, 466 U.S. 668 (1984), and its New Jersey counterpart, State v. Fritz,
 106 105 N.J. 42 (1987). Counsel's deficiencies included:

- 107 i. **Failure to Investigate:** Critical employment records and witness testimony
 108 ignored, depriving me of a substantive defense.
- 109 ii. **Failure to Subpoena Witnesses:** Key witnesses, including Nick of NAC
 110 Custom Carpentry, not called to testify.
- 111 iii. **Neglect of Civil Case Relevance:** Counsel did not leverage my civil rights
 112 lawsuit, Case 1:22-cv-06206, which highlighted systemic abuses and false
 113 accusations.
- 114 iv. **Minimal Communication:** Not fully informed of my rights or defense
 115 strategy, leaving me unable to make informed decisions.

116 **B. Voluntariness of the Guilty Plea**

- 117 a. Under Boykin v. Alabama, 395 U.S. 238 (1969), a guilty plea must be knowingly,
 118 voluntarily, and intelligently. My plea was not voluntary due to:
- 119 i. **Coercion and Duress:** The unsanitary jail conditions and threats of
 120 prolonged incarceration influenced my decision.

ii. **Ineffective Counsel:** Counsel's failure to inform me of the consequences rendered my plea involuntary, as in *State v. Nunez-Valdez*, 200 N.J. 129 (2009).

C. Conflict of Interest and Bias

a. My arrest by the department led by my stepfather raises serious concerns under *State v. Bell*, 90 N.J. 163 (1982). The investigation lacked neutrality and thoroughness, undermining the integrity of the proceedings.

D. Inhumane Conditions and Neglect in Custody

a. The unsanitary and degrading conditions I endured while in custody violated my constitutional rights under the Eighth Amendment of the U.S. Constitution and Article I, Paragraph 12 of the New Jersey Constitution, which prohibit cruel and unusual punishment. These violations are consistent with the principles established in *Estelle v. Gamble*, 429 U.S. 97 (1976), which held that deliberate indifference to serious medical needs constitutes cruel and unusual punishment.

b. Additionally, in *County of Hudson v. State of New Jersey*, 188 N.J. 7 (2006), the New Jersey Supreme Court emphasized that jails are to maintain humane conditions that do not expose detainees to unnecessary suffering. The unsanitary conditions I endured, including untreated scabies and bedbug infestations, reflect a systemic failure to uphold these obligations.

c. Further, in *State v. Natale*, 184 N.J. 458 (2005), the New Jersey Supreme Court highlighted that procedural and substantive fairness must extend to all aspects of the criminal justice system, including the treatment of individuals in custody. The deliberate indifference displayed by correctional staff to my repeated pleas for

144 medical attention falls squarely within the scope of unconstitutional neglect as
145 defined by these precedents.

146 **E. Financial Harm Caused by Ineffectiveness**

147 The financial harm I endured as a direct result of my counsel's ineffective assistance further
148 compounded the injustice I experienced. In *State v. Preciose*, 129 N.J. 451 (1992), the New
149 Jersey Supreme Court held that ineffective counsel constitutes a violation of fundamental
150 fairness under the New Jersey Constitution. The lack of adequate representation led to
151 unnecessary legal expenses, loss of significant income opportunities, and irreparable
152 reputational damage. **Specifically:**

153 **a. Failure to Present Evidence of Employment:**

154 My counsel's failure to present evidence of my legitimate employment, including
155 testimony from Nick and documentation from NAC Custom Carpentry, caused
156 reputational damage that hindered future employment opportunities. This neglect violated
157 my right to a fair defense, as established in *State v. Fritz*, 105 N.J. 42 (1987), where the
158 court emphasized the need for defense counsel to provide competent representation to
159 protect the defendant's rights.

160 **b. Unpaid Wages and Coerced Labor:**

161 The actions of Joe's Painting and Renovations, including withholding wages and coercing
162 labor, exacerbated my financial instability. In *DeMarco v. Stoddard*, 223 N.J. 363 (2015),
163 the New Jersey Supreme Court highlighted the necessity of addressing harm caused by
164 breaches of contractual and fiduciary obligations, which in my case left me unable to
165 defend myself adequately.

c. Wasteful Legal Fees:

The legal fees I incurred for ineffective representation were not only wasteful but unjustified, depriving me of the resources necessary for proper legal defense. *State v. Franklin*, 184 N.J. 516 (2005), underscores the constitutional requirement for effective representation and the importance of safeguarding a defendant's financial and legal interests during proceedings.

Compounding Harm from Custodial Neglect:

While in custody, I endured unsanitary and degrading conditions, which violated the Eighth Amendment as established in *Estelle v. Gamble*, 429 U.S. 97 (1976). Correctional staff demonstrated deliberate indifference to my medical needs, causing unnecessary suffering. The principles outlined in *County of Hudson v. State of New Jersey*, 188 N.J. 7 (2006), reaffirm the state's obligation to maintain humane custodial conditions, further underscoring the systemic failures I faced.

These financial harms and systemic failures highlight the cascading effects of ineffective counsel and institutional neglect, undermining the fundamental principles of justice and fairness guaranteed under the New Jersey and U.S. Constitutions.

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189 **Motion for Issuance of Subpoenas**

190 To support my petition and protect my constitutional rights, as well as my heritage as a New
191 Jersyan of Irish descent, I respectfully request subpoenas for the following:

192 **1. Joe's Painting and Renovations (including Joe's Painting and Renovations 11):**

193 a. Documents proving my residency, labor agreements, and records of payment or the
194 absence thereof, highlighting my lawful work arrangement and refuting the
195 allegations against me.

196 b. Internal communications and reports concerning their allegations, including
197 coordination with law enforcement that led to improper searches, seizures, and
198 violations of due process.

199 **2. NAC Custom Carpentry:**

200 a. Employment records, agreements, and communications demonstrating my
201 trustworthiness and work ethic.

202 b. Testimony from Nick, who entrusted me with a Ford F-250 for use both on and off
203 duty shortly after meeting me, underscoring my reliability and dedication to my
204 work.

3. Correctional Facility Records:

- a. Documentation of medical complaints, treatment records, and incident reports regarding the unsanitary and degrading conditions I endured, including untreated scabies and bedbug infestations.
- b. Communications reflecting staff indifference to my health and well-being, violating constitutional protections against cruel and unusual punishment under the Eighth Amendment and Article I, Paragraph 12 of the New Jersey Constitution.

4. Law Enforcement Agency:

- a. Investigation materials related to my arrest, including police reports in which Joseph Hardemon admitted to hiring me, corroborating my employment relationship and my lawful presence at the property.
- b. Communications addressing potential conflicts of interest, specifically the involvement of officers acting at the behest of the Hardemons without regard to my rights, in violation of the Fourteenth Amendment's due process guarantees.

5. Statements Made by the Hardemons (Joseph, Joshua, and Joseph Sr.):

- a. Documentation, testimony, and internal communications supporting or contradicting their allegations, specifically their claims regarding my work and character.
- b. Records demonstrating their coordination with law enforcement to unlawfully deprive me of my property, destroy my belongings, and undermine my reputation.
- c. Evidence of intent to leverage systemic processes in bad faith, targeting me unfairly and exacerbating my financial and emotional harm.

227 **Request for Relief**

228 WHEREFORE, I respectfully request the Court:

- 229 1. Vacate my conviction and sentence.
- 230 2. Order reimbursement of \$5,000 paid for ineffective representation.
- 231 3. Grant an evidentiary hearing to address the claims outlined in this petition.
- 232 4. Issue subpoenas to secure critical evidence.
- 233 5. Provide any other relief deemed just and equitable to protect my constitutional rights and
- 234 restore justice.

235 **Conclusion**

236 Your Honor,

237 This petition is a respectful appeal for justice rooted in truth and fairness. The circumstances
 238 surrounding my conviction, compounded by deficiencies in my legal representation and the harm
 239 I endured, demand restoration of trust in the principles of impartiality and integrity.

240 Respectfully submitted,

241

242 Devon T. Barber

243 Pro Se Petitioner

244 Superior Court of New Jersey

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251 **Affidavit of Devon T. Barber in Support of Post-Conviction Relief Petition**

252

253 I, Devon T. Barber, duly sworn according to law, depose and say:

254 **1. Personal Background**

255 a. I am the petitioner in the accompanying Motion for Post-Conviction Relief.

256 b. I am a resident of the State of New Jersey and a man guided by the principles of
257 natural law, justice, and heritage.

258 **2. Purpose of This Affidavit**

259 a. This sworn statement submitted in support of my Post-Conviction Relief Petition
260 to affirm the factual accuracy and truthfulness of the claims and allegations set forth
261 in my motion.

262 b. I solemnly affirm that the information provided herein and in my petition is true
263 and accurate to the best of my knowledge, information, and belief.

3. Employment and Trustworthiness

- a. Prior to my arrest, I was a trusted employee of two contractors: NAC Custom Carpentry and Joe's Painting and Renovations.
- b. My employer at NAC Custom Carpentry entrusted me with a Ford F-250 for work and personal use shortly after meeting me, demonstrating his confidence in my character and work ethic.
- c. Conversely, Joe's Painting and Renovations failed to pay me for my labor and used false accusations to shield themselves from accountability.

4. Conditions of Arrest and Detention

- a. At the time of my arrest, law enforcement officers affiliated with the department led by my stepfather oversaw the investigation. This relationship raises a serious conflict of interest.
- b. While detained, I endured unsanitary and inhumane conditions, including untreated scabies and bedbug infestations, despite repeated requests for medical attention. These conditions exacerbated my physical and emotional suffering.

5. Ineffective Assistance of Counsel

- a. My appointed counsel failed to investigate critical evidence, subpoena key witnesses, or adequately inform me of my rights and legal options. This failure significantly impaired my ability to mount a proper defense.
- b. Counsel's neglect of my civil rights lawsuit, Case 1:22-cv-06206-KMW-EAP, deprived me of a critical opportunity to highlight systemic abuses and false accusations.

6. Reputational and Financial Harm

a. The unjust allegations and my counsel's failures resulted in reputational damage, loss of employment opportunities, and financial instability.

b. Joe's Painting and Renovations' refusal to pay wages and the legal fees I incurred due to ineffective representation further compounded my hardship.

7. Petition for Justice

a. I seek relief not out of malice but out of a desire to restore fairness, dignity, and justice to my case. My petition is rooted in a sincere belief in the principles of impartiality and integrity that underpin our legal system.

Conclusion

I affirm that all statements contained in this sworn statement and the accompanying petition are true and correct to the best of my knowledge, information, and belief. I respectfully request that the Court grant the relief sought in my Post-Conviction Relief Petition.

Affirmed and verified under penalty of perjury and the laws of New Jersey, before God, on this 31st day of JANUARY, 2025 Anno Domini (Year of Our Lord).

Signature: BY: x D(T)B, Barber, Devon Tyler of the
[Printed Name: Devon T. Barber] Barber family (formerly Donohoe-Mateno)

In peace without dishonor.

Declaration

I, Devon Tyler Barber, affirm under penalty of perjury under the laws of the United States of America that the foregoing is true, correct, and based on my firsthand knowledge and belief.

This declaration is made in good faith, with all rights reserved and without waiving any of my lawful rights or protections under the Constitution and applicable laws.

Executed on this 31 day of JANUARY, 2025 A.D.

By:
Devon Tyler Barber

X(A)X

Legal Memorandum in Support of Post-Conviction Relief

State of New Jersey v. Devon T. Barber

Docket No.: ATL-22-002292

I. Introduction

This petition for Post-Conviction Relief arises from a conviction plagued by constitutional violations, systemic failures, and procedural injustices under New Jersey's criminal justice system. Central to this case is the misuse of **New Jersey's bail reform policies**, which deprived me of meaningful participation in my pretrial detention hearing and violated my rights to due process and a fair hearing. The hearing, conducted via **Zoom**, muted my voice entirely, preventing me from addressing accusations that demonized my actions and character. This lack of participation undermined the integrity of the proceedings and reflects the broader constitutional issues at play.

Although I accepted the constitutional oath of a public defender, I never signed a formal agreement authorizing her to represent my will. Her failure to advocate effectively on my behalf, challenge the legitimacy of the detention hearing, or present mitigating evidence further eroded my chances of justice. After being held for **120 days** under inhumane conditions, including untreated scabies and bedbug infestations, I was presented with a plea deal before I had the opportunity to formally plead or contest the charges. This coercive and procedurally deficient environment left me little choice but to accept the plea.

The financial and emotional strain worsened when family pressure led to the transition to a private attorney. Funded by a \$5,000 loan from my uncle, this decision, made in desperation, imposed a significant financial burden that I have since repaid at great personal sacrifice. Despite the expense, my retained counsel failed to provide effective representation, neglecting to

investigate critical evidence, challenge unsubstantiated claims, or contest the grand jury's escalation of charges from **harassment to terroristic threats**. The escalation was based solely on statements by **Joseph Hardemon and his family**, who falsely claimed to fear for their lives and accused me of racial bias—claims disproven by my respectful relationships with people of diverse backgrounds, including friendships formed while in custody.

This case highlights several systemic injustices:

1. Constitutional Violations in Pretrial Detention:

- My rights under the **Fifth, Sixth, and Eighth Amendments**, as well as **Article I, Paragraph 1** of the New Jersey Constitution, were violated due to the lack of procedural fairness during the detention hearing and excessive pretrial detention without meaningful participation.

2. Ineffective Assistance of Counsel:

- Both court-appointed and retained counsel failed to investigate key evidence, challenge procedural deficiencies, or address false accusations, falling short of the standards outlined in *State v. Fritz* (1987) and *State v. Preciose* (1992).

3. Unfair Escalation of Charges:

- The grand jury's reliance on uncorroborated claims by the Hardemons to escalate charges from harassment to terroristic threats reflects a failure to ensure evidence-based decision-making, as required under *State v. Porter* (2013).

4. Coercion and Procedural Deficiencies:

- Being held for 120 days before any substantive court appearance created undue pressure, forcing me to accept a plea without fully understanding the consequences, as seen in *State v. Mercedes* (2018).

48 This petition seeks to rectify these constitutional and systemic violations, address the financial
49 and emotional harm caused by ineffective representation, and restore justice to a process that
50 failed to uphold my fundamental rights.

51 **II. Background and Procedural History**

52 **1. Conviction Details:**

53 **o Original Charges:**

- 54 **▪ Aggravated Assault—Attempt/Cause Significant Bodily Injury**
55 **(N.J.S.A. 2C:12-1B(7)).**
- 56 **▪ Possession of a Weapon for Unlawful Purpose—Other Weapon**
57 **(N.J.S.A. 2C:39-4D).**
- 58 **▪ Resisting Arrest (N.J.S.A. 2C:29-2A(1)).**

59 **o Final Judgment:** Conviction of reduced charges via negotiated plea agreement.

60 **2. Incident Date: July 11, 2022.**

- 61 **o The Galloway Township Police responded to a disturbance involving the**
62 **petitioner and the alleged victim, Joseph Hardemon.**
- 63 **o Upon arrival, officers discovered the petitioner holding a crowbar and ordered**
64 **compliance, which was given without resistance.**
- 65 **o The alleged victim claimed the petitioner had punched him, causing him to**
66 **stumble and sustain an ankle injury.**

67 **3. Judgment and Sentence:**

68 **o Date of Judgment:** January 12, 2023.

69 **o Sentence:**

- 70 **▪ Three years of probation.**
- 71 **▪ Attendance at anger management and mental health evaluations.**
- 72 **▪ No contact with the victim.**

73 **III. Legal Grounds for Relief**

74 **1. Ineffective Assistance of Counsel:**

- 75 ○ Counsel failed to investigate and present critical evidence, including employment
- 76 records and missing property (e.g., petitioner's **iPhone X**) containing **expressed**
- 77 **and implied agreements** between the petitioner and the victim.
- 78 ○ Counsel did not adequately challenge the reliability of the victim's testimony,
- 79 which was the primary evidence against the petitioner.
- 80 ○ *Relevant Precedent: Strickland v. Washington*, 466 U.S. 668 (1984); *State v. Fritz*,
- 81 105 N.J. 42 (1987).

82 **2. Constitutional Violations:**

- 83 ○ The petitioner's rights under the **Eighth Amendment** and **Article I, Paragraph**
- 84 **12** of the New Jersey Constitution were violated due to inhumane conditions
- 85 while in custody (e.g., untreated scabies and bedbug infestations).
- 86 ○ Procedural due process was compromised by the court's reliance on
- 87 uncorroborated victim statements without proper investigation.
- 88 ○ *Relevant Precedent: Wong Sun v. United States*, 371 U.S. 471 (1963); *County of*
- 89 *Hudson v. State of New Jersey*, 188 N.J. 7 (2006).

90 **3. Improper Procedural Handling:**

- 91 ○ Police reports indicate that the petitioner was arrested without proper cause, as the
- 92 incident stemmed from the **unlawful removal of property** by the victim, which
- 93 escalated into confrontation.
- 94 ○ The destruction of the petitioner's property, including the deliberate killing of two
- 95 tarantulas housed in a tank, was not addressed during the proceedings.

96 **4. Mitigating Factors Ignored:**

- 97 ○ The petitioner's lack of prior felony convictions and age (24 years old at the time)
- 98 were mitigating factors that were not adequately weighed during sentencing.
- 99 ○ *Relevant Precedent: State v. Rice*, 425 N.J. Super. 375 (App. Div. 2012).

100 **IV. Relief Requested**

101 The petitioner respectfully requests the Court to:

- 102 **1. Vacate the Conviction and Sentence:** Declare the guilty plea invalid due to ineffective
- 103 assistance of counsel and constitutional violations.

104 2. **Grant an Evidentiary Hearing:** Allow the petitioner to present new evidence, including
 105 testimony on the unlawful removal of property, destruction of personal belongings, and
 106 provocation by the alleged victim.

107 3. **Issue Subpoenas for Missing Records:** Direct the retrieval of employment agreements,
 108 police bodycam footage, and other relevant documents.

109 4. **Provide Equitable Relief:** Address the financial and emotional harm caused by the
 110 wrongful conviction.

111 **V. Conclusion**

112 The petitioner asserts that the conviction resulted from significant procedural and constitutional
 113 errors that warrant relief under Rule 3:22. By granting this petition, the Court will uphold the
 114 principles of justice and ensure that the systemic failures that compromised the petitioner's case
 115 are rectified.