

Certification of Devon Tyler Barber in Support of Petition for Post-Conviction Relief

I, Devon Tyler Barber (formerly known as Devon Tyler Materio), age 27, am the Petitioner in the above-captioned matter. I am a lifelong New Jersey resident and a licensed Home Improvement Contractor by trade. I make this certification in support of my Verified Petition for Post-Conviction Relief pursuant to **Rule 3:22-1 et seq.** All statements herein are true to the best of my knowledge, and I offer them in good faith, with the utmost respect for the Court. For privacy, I will refer to the complainant (my former employer and associate) by the initials “**J.H.**” throughout this statement.

Professional History and Transition

In 2017–2018, I began working for a home improvement business called "Joe's Painting & Renovations," under my legal name Devon T. Barber (Social Security *--**6917). J.H. – my employer (and a friend from high school) – initially valued my contributions. I was a dedicated learner in trades like tiling, painting, and general renovations, quickly earning a reputation for reliability and a strong work ethic. J.H. mentored me in the beginning and our relationship was built on mutual trust.

By 2019, J.H. encouraged me to venture out on my own as an independent contractor, suggesting I could find better opportunities. Taking his advice, I took proactive steps toward building my own business:

- **Established My Business:** I formally incorporated a home improvement enterprise, obtained proper business insurance, and acquired a New Jersey Home Improvement Contractor (HIC) license.
- **Joint Project with J.H. :** Around that time, I collaborated with J.H. on a major renovation project under a “50-50” profit agreement. I performed nearly all of the

physical labor on that project, while J.H.'s involvement was minimal – mostly bringing in his father's contact, who worked as a plumber.

Unfortunately, this partnership revealed deep inequities. The plumber's poor workmanship on that project caused a serious leak, which led the client to leave a negative review that damaged my nascent company's reputation. I bore the brunt of the blame for issues I did not cause.

Despite these setbacks, I took away valuable lessons about the importance of clear contracts, fairness in business dealings, and holding all parties accountable for their work.

Personal Challenges and Exploitation

In the years following this collaboration, I encountered significant personal and professional hardships. The loss of my work truck was a devastating blow to my ability to operate independently – without a reliable vehicle, it became extremely difficult to commute to job sites or transport tools and materials. Around the same time, I was trapped in a toxic personal relationship that left me emotionally drained and vulnerable. These struggles compounded and put me in a precarious position both financially and mentally.

Amid this turmoil, J.H. along with his brother and their father (a man I respected as a mentor), extended what seemed like a lifeline. They told me they were far behind schedule on a house rehab project and **urgently needed my help** to finish the work. They offered me a place to stay on-site and a chance to get back on my feet. Trusting them once again, I agreed to their proposal, which included the following terms: (a) **Living on Site:** I would reside at the rehab property as a caretaker, effectively safeguarding the site. (b) **Labor and Maintenance:** I would handle a wide range of tasks — everything from installing tile and performing paint work, to doing lawn care and cleaning up after their crew each day.

I moved into the property and threw myself into the work, grateful for the opportunity and determined to prove my loyalty and skill. However, despite my hard work and full commitment, the family soon **began to withhold my wages**. Weeks passed with me putting in long hours, yet I was told by J.H. and his family that I “wasn’t owed anything” for the labor I provided. This was an enormous betrayal of my trust. I found myself working for basic room and board, with no income. I became financially destitute – often hungry because I could not afford food, and unable to cover even my basic necessities. The people I thought were helping me had exploited my situation, effectively **stealing my wages** and leaving me in a state of desperation.

Escalation and Betrayal at the Worksite

The situation reached a breaking point one evening in mid-2022. That day, I had done some outside work for another contractor, **Nick (owner of NAC)**, who is a local carpenter. Nick treated me with respect and even trusted me with the keys to his work truck on my very first day working with him. He paid me fairly for my labor and even provided gas money for the truck — a small act of kindness that meant a great deal to me during this difficult period. His generosity stood in stark contrast to how J.H.’s family was treating me.

After finishing up work with Nick that evening, I returned to the rehab house where I was living and working for J.H. What I found when I arrived was nothing short of devastating. I was confronted with a chaotic scene of **utter betrayal**:

- **Personal Belongings Destroyed:** All of my personal belongings had been **thrown out** across the yard. I saw members of J.H.’s crew actively vandalizing and destroying my property under J.H.’s direction.
- **Cruel Killing of My Pets:** J.H. himself had deliberately smashed the glass enclosure that housed my two beloved pet tarantulas. These pets — including a Goliath bird-eater

tarantula (*Theraphosa blondi*) that I had carefully raised — had been securely kept in their tank. J.H. shattered the aquarium **on purpose**, and the creatures were crushed and killed. I later found their broken enclosure.

These pets were innocent, docile, and important to me; I cared for them daily, and seeing them killed in such a callous manner was deeply upsetting. Their deaths were not an accident but a **cruel and malicious act intended to hurt and humiliate me**. As this destruction unfolded, several of the crew members stood by laughing, mocking my distress, and even **recording videos** of the scene on their cell phones.

Overwhelmed by grief, shock, and anger at this blatant betrayal, I still tried to **resolve things peacefully at first**. I pleaded with them to stop the destruction. I wanted to understand why they were doing this and to salvage what I could of my property. My pleas were met with ridicule. In that moment, everything I owned and cared for was being torn apart in front of my eyes, and I felt completely powerless and disrespected.

The Incident: Confrontation and Self-Defense

The **deliberate destruction of my property and the killing of my pets** pushed me past my breaking point emotionally. In a moment of intense despair and anger, I confronted J.H. directly. I admit that I **lost my composure**: I shouted at him and, in the heat of the moment, **I threw a punch and struck J.H. once**. This was a spontaneous reaction fueled by the extreme emotional distress I was under — it was not planned or premeditated, but rather an impulsive flash of anger after seeing the cruel harm he had caused me.

Immediately after I hit J.H. the situation escalated dangerously. A group of the work crew — many of whom were people I barely knew or complete strangers J.H. had hired — suddenly **swarmed and attacked me**. Several of them tackled me to the ground, while others continued to

stand by and laugh at my misfortune, some still recording on their phones. I was now not only the victim of property destruction but also the target of a physical assault by multiple people at once.

Fearing for my life and safety as I was being overwhelmed by the group, I managed to scramble to my feet. In self-defense, I picked up a **crowbar** that was lying among the tools on the site. I **held the crowbar by my side** as a visual deterrent to keep the mob at bay. At no point did I swing this crowbar at anyone, nor did I brandish it in a threatening manner – I simply held it because I was outnumbered and desperate to ward off any further attack. The crowbar was **never used to strike** anyone; it was a last-resort measure to protect myself from a group of people who had already tackled and hit me.

With the crowbar in hand to discourage further aggression, I took an opportunity to **escape**. I ran from the property and headed to a neighboring house, where I frantically begged for help. I was injured, frightened, and in shock over what had just occurred. I hoped the neighbors might call the police for me or at least provide me shelter until I could get help. However, the situation took another unjust turn when law enforcement arrived.

Instead of receiving the help I desperately needed, I was met by police officers who immediately placed me under arrest. Unbeknownst to me at the time, J.H.'s father had already contacted his associates in the local police department and fed them a **false narrative** of the incident. J.H.'s father held significant influence (he had personal connections at the police station), and he portrayed me as the sole aggressor – essentially accusing me of a violent, unprovoked attack. I tried to explain what really happened, but the officers refused to listen to my side of the story. They treated me as a dangerous criminal from the outset. I was promptly handcuffed and taken into custody, while **J.H. and the others – the very people who destroyed my property and**

attacked me – were left free at the scene. My injuries and the context of self-defense were completely disregarded. In that moment, I experienced firsthand how one-sided misinformation and personal connections can subvert justice.

Unjust Detention and Jail Mistreatment

After my arrest, I was booked into the Atlantic County Justice Facility. What followed was a harrowing period of **detention under inhumane conditions**. I was presumed innocent under the law, yet I was treated worse than a convicted criminal. I wish to outline the most egregious aspects of my pretrial detention, as they greatly impacted my mental state and decision-making:

- **Prolonged Pretrial Jailing:** I was incarcerated for approximately **120 days (about four months)** before I was ever brought before a judge or given any meaningful court hearing. During this time, I languished in jail with no indication of when I would have a chance to speak for myself. This extensive delay in simply seeing a judge caused me extreme anxiety and a sense of hopelessness.
- **Solitary Confinement as Retaliation:** At one point, I merely **asked to make a phone call** so I could contact an attorney or at least speak with a family member. For this simple request, jail staff retaliated by throwing me into **solitary confinement**. I was isolated in a tiny cell for days, without access to a phone or human contact, essentially because I tried to exercise my right to legal counsel and to inform someone of my situation. The use of solitary confinement in my case was purely punitive and had nothing to do with jail safety or discipline – it was meant to break my spirit.
- **Physical and Verbal Abuse:** On multiple occasions, I was **physically manhandled and abused by jail guards**. When I attempted to assert my basic rights or even just ask for necessities I was met with hostility. I was beaten for “talking back” when all I did was

insist on making a phone call. This abuse left me with bruises and an enduring sense of fear. I felt utterly powerless.

- **Psychological Trauma:** The combination of isolation, uncertainty, and mistreatment took a severe psychological toll on me. I experienced panic attacks, depression, and a constant fear that I might never get out of jail alive. Being denied basic human dignity – not to mention the normal presumption of innocence – was traumatizing. I was made to feel less than human, which was exactly the jail staff's intent when they **denied me basic humanity and due process** during those four months.

Throughout this period, I repeatedly maintained to anyone who would listen that **I was not the aggressor** in the incident with J.H. I begged for someone to investigate the circumstances – to look at the videos recorded by the crew, or to at least consider my injuries – but my pleas fell on deaf ears. Instead, I remained locked away, suffering and fearing that the truth would never come to light.

Coerced Guilty Plea Under Duress

When I **finally appeared in court** for the first time (after roughly 120 days of pretrial incarceration), I was not given a chance to fully explain my situation. Instead, I was immediately presented with a **plea bargain** by the prosecution. At that moment, I was gaunt, exhausted, and mentally broken from the ordeal I had endured in jail. I had spent months in conditions that can only be described as torture for an innocent person.

The plea offer was essentially my **only escape** from the nightmare of jail. I was told that if I accepted pleading guilty to certain charges, I would eventually be released, whereas if I insisted on going to trial, I could remain in custody for many more months (or even years) awaiting trial and, if convicted of the serious charges they levied, I might face a very lengthy prison sentence.

Given my fragile mental and physical state, the prospect of continuing to endure jail – or risking decades in state prison – was terrifying.

I want to make it clear: **the guilty plea I entered on October 26, 2022, was not a reflection of the truth of what happened**, nor of my actual guilt or innocence. It was a decision born out of pure **coercion and duress**. After suffering so much injustice and pain, I felt I **had no real choice** but to accept the deal being offered. In my mind, pleading guilty was the only way I could secure an end to the immediate suffering (solitary confinement, beatings, and hopelessness) and possibly survive to fight another day. I accepted the plea **under extreme protest internally** – I intended, once free and able, to **challenge that plea** at the first opportunity with proper legal assistance.

Indeed, from the moment I was released, it has been my intent to **withdraw or vacate that plea** because it was not given freely, knowingly, and voluntarily in the way the law requires. I was not in a clear state of mind, I was not properly advised of all my options (my public defender at the time did little to advocate for me and my paid trial attorney seemed to care more about talking to the prosecutor rather than provide facts to dismiss the matter completely), and I only pleaded guilty to escape the intolerable conditions of confinement. I did not commit the crimes as they were described; I never *intentionally* assaulted anyone without provocation and I certainly never threatened anyone's life (the so-called "terroristic threats" charge was a complete fabrication – I made no such threats at any point). My plea was a desperate act by a broken man, not a genuine confession of guilt.

Key Points of Injustice in My Case

I respectfully summarize the core injustices surrounding my case, to provide context for the legal relief I seek. These points illustrate how my situation represents a miscarriage of justice at multiple levels:

1. **Wage Theft and Exploitation:** What led to this incident was fundamentally a **civil labor dispute** masquerading as a crime. J.H. took advantage of my labor by misclassifying me as an “independent contractor” to avoid fair wages and legal obligations. He breached our work agreement and **withheld my earned wages**, exploiting my vulnerable circumstances. This abuse of trust set the stage for all that followed.
2. **Breach of Agreement and Retaliation:** I upheld my end of the bargain with J.H., working in good faith and with diligence. In return, my **wages were withheld**. When I pushed back and asked for what was fair, I was met not just with refusal but with **retaliation** – ultimately culminating in the destruction of my property and false accusations against me. Turning a private contract dispute into a criminal matter was an abuse of the system.
3. **Cruel and Malicious Acts:** The actions of J.H. and his associates on that day were intentional and vicious. They **destroyed my personal property** (including work tools, clothing, and personal effects) and even went so far as to **kill my pets** for sport. I was **publicly humiliated** as they laughed and filmed my despair. Such wanton cruelty is far outside the bounds of normal behavior and contributed directly to the highly charged, emotional situation.
4. **Violation of My Rights in Custody:** After the incident, my right to fair treatment was obliterated. I was **denied due process** at the time of arrest (the police refused to even

hear my side). Then, in jail, I was subjected to **solitary confinement** and physical abuse for simply attempting to assert my rights (like the right to counsel and to humane treatment). The conditions I endured were degrading and punitive, far beyond what any presumptively innocent person should suffer. This treatment broke my spirit and **coerced me into pleading guilty**, undermining the voluntariness of that plea.

5. **Abuse of Law Enforcement and Process:** J.H.'s father leveraged his personal connections to **manipulate law enforcement** and cast me as the aggressor, which led to one-sided charges. The authorities **failed to investigate** the situation properly – for example, by not securing or considering the crew's cell phone videos or the obvious signs that I had been attacked and my property trashed. This was a **perversion of justice**, where the system was used as a tool of vengeance in a personal dispute rather than to discover the truth.

Each of these points constitutes a serious injustice on its own. Taken together, they paint a picture of a case that **cries out for relief**. I urge the Court to see that my prosecution and conviction were fundamentally unfair and are ripe for correction through the Post-Conviction Relief process.

Lack of Prior Violent History and Personal Growth

I want to address my personal background and character, as it bears on the credibility of my claims and my motivation in seeking justice. I am now 27 years old, and aside from the incident that is the subject of this petition, I have **no history of violence** in my life. My only prior conviction was in 2018 in the State of Ohio, stemming from an incident that a grand jury reviewed and decided to indict as a felony. I was very young – in my teens – at that time. That Ohio case has been the sole blemish on my record. Importantly, **there have been no other**

incidents of alleged violence or criminal behavior on my part, before or since. I have learned from past mistakes and have worked hard to better myself.

I am a hardworking individual who has always tried to earn an honest living. I take pride in my work as a contractor and in the small business I created. Those who have worked with me, like Nick from NAC, can attest to my work ethic, trustworthiness, and skill. The events that led to my arrest in this case were completely out of character for me – I was provoked by extreme cruelty and reacted in a moment of passion and fear. I am **not** a violent, dangerous person. I am a devoted son, a loyal friend, and a person of faith trying to contribute positively to my community. My goal is to clear my name so I can continue working in my trade, serve my clients, and help care for my family and loved ones.

Legal Grounds for Relief (Rule 3:22 and Case Law References)

I am advised and believe that the law provides remedies for someone in my situation. I have learned that a Post-Conviction Relief petition is the proper vehicle to address the kinds of constitutional and legal violations that occurred in my case. I respectfully invoke the following legal principles and ask the Court to consider them in evaluating my petition:

- **Involuntary Plea Withdrawal:** The law demands that guilty pleas be entered knowingly, intelligently, and voluntarily, **without coercion** (see *Boykin v. Alabama*, 395 U.S. 238 (1969)). New Jersey courts have established factors to determine when a guilty plea may be withdrawn in the interests of justice. Under *State v. Slater*, 198 N.J. 145 (2009), a court should consider, among other things, whether a defendant has a colorable claim of innocence, the strength of reasons for withdrawal, the existence of a plea bargain, and any prejudice to the State. Here, I maintain my **innocence** of any unlawful intent – I acted in self-defense and never intended to harm anyone or threaten anyone's

life. My reasons for withdrawing the plea are extremely strong: the plea was the product of relentless pressure, fear, and poor advice from my then-counsel. There was a plea bargain in this case, but it was one I felt forced to accept. Allowing my plea to stand would result in a manifest injustice, whereas the State would not be unfairly prejudiced by a withdrawal since the truth of the matter has never been litigated in a fair proceeding.

- **Ineffective Assistance of Counsel & Conflict of Interest:** I did not receive the effective, conflict-free representation that I am guaranteed under the Sixth Amendment of the U.S. Constitution and Article I of the New Jersey Constitution. My court-appointed attorney at the time **failed to advocate for me** properly – for instance, by not pursuing evidence of my innocence (like the crew’s videos or the context of the incident) and by pressuring me to take the plea deal quickly. I also suspect there may have been an **actual conflict of interest** affecting my counsel (for example, it is possible my counsel had a connection to the prosecutor or to J.H.’s family, given how my case was handled). An attorney who does not zealously represent their client, or who has divided loyalties, violates the standard set in *Strickland v. Washington*, 466 U.S. 668 (1984) and *State v. Fritz*, 105 N.J. 42 (1987). Under those cases, I must show that counsel’s performance was deficient and that it prejudiced my defense. Here, counsel’s failure to defend my innocence or challenge the State’s version of events fell below any reasonable standard of competence, and it unquestionably prejudiced me – I was left with no defense and felt I had no option but to plead. Moreover, if there was an actual conflict of interest, prejudice is presumed (*Cuyler v. Sullivan*, 446 U.S. 335 (1980)), and I was entitled to conflict-free counsel at all stages.

- **Brady Violations and Withheld Evidence:** The prosecution and police **failed to preserve or disclose evidence** that could have supported my innocence or mitigated my culpability. Several crew members recorded videos of the incident on their phones – these videos would likely show the sequence of events, including the crew’s aggression toward me and my non-aggressive use of the crowbar. To my knowledge, these recordings were never obtained by the police or provided to my defense. If the State had or could have obtained them, it was **obligated under *Brady v. Maryland*, 373 U.S. 83 (1963)** to disclose any exculpatory evidence to me. Similarly, any evidence affecting the credibility of J.H. or his father – such as their motives to lie or any deals or promises made to them – should have been disclosed under *Giglio v. United States*, 405 U.S. 150 (1972). The absence of these crucial pieces of evidence and information severely compromised the fairness of the proceedings against me.
- **Fundamental Fairness and Abuse of Process:** My prosecution represents an inappropriate use of the criminal justice system to settle what was essentially a civil dispute over wages and contract obligations. While it is true that an altercation occurred, the **genesis of that conflict was a civil matter** – nonpayment of wages and personal betrayal – that spiraled unexpectedly. It offends fundamental fairness when one party (J.H.’s side) can destroy property, provoke a confrontation, and then wield the criminal law as a sword to punish the other party for the fallout. New Jersey courts have recognized the importance of fundamental fairness in criminal proceedings, and that principle should be applied here to prevent a miscarriage of justice. My case is precisely the sort of extraordinary situation where Post-Conviction Relief is warranted to correct an injustice that was not and could not have been fully addressed on direct review.

Under **Rule 3:22-2(a)**, a PCR petition can be granted for a substantial denial of my rights under the Constitution. I assert that multiple such denials occurred in my case (violations of my Sixth Amendment right to effective counsel, and Fifth/Fourteenth Amendment due process rights regarding my plea and treatment). This is my first petition for PCR, and it is filed within the permissible time frame (within five years of my conviction, per *R. 3:22-12*). Although I did not appeal my conviction or raise these issues earlier (largely because I lacked resources and was dealing with the trauma of the situation), I submit that **Rule 3:22-4** should allow review of these claims now. Enforcing any procedural bar would result in a fundamental injustice, given that I am presenting genuine constitutional grievances and evidence that was not previously considered. I have exercised due diligence in bringing these facts to light as a self-represented petitioner now that I am finally able to do so. I ask the Court to relax any procedural limitations in the interest of justice and address the merits of my claims.

My Truth, My Faith, and My Commitment to Justice

I want to close by speaking from the heart about who I am and why I am fighting to overturn this wrongful conviction. **I have always strived to live honestly and to work hard.** Throughout the entire ordeal with J.H., I acted in good faith. I put my trust in people who betrayed me, but I did so believing it was the right thing – I showed up every day, I did my job, and I tried to resolve conflicts peacefully until I was pushed past the brink. The physical altercation that occurred was **not something I ever wanted or planned**; it was an aberration in my life caused by extreme emotional distress and an immediate threat to my safety. I reacted instinctively, as many would, when faced with such cruelty and danger.

The guilty plea that now stains my record **does not represent the truth** of what really happened that night. It does not represent who I am as a man. That plea was extracted from me under

conditions of extreme duress – any person subjected to the treatment I was subjected to might have done the same just to survive. I pray that the Court will see that maintaining a conviction under these circumstances would be a travesty of justice.

Since regaining my freedom, I have remained steadfast in my intention to **clear my name and set the record straight**. I am **fully committed to seeing justice done** in this case. I seek to formally withdraw or vacate my coerced plea, to have my convictions vacated, and to ultimately prove my innocence of the charges. Only then can I truly rebuild my life. Clearing these convictions will allow me to **reinstate my credentials as a New Jersey Home Improvement Contractor**, a career that I love and have worked hard to establish. It will allow me to move forward without the shadow of this injustice hanging over me.

I am a man of deep faith and heritage. I am of Irish and English descent, raised with Christian values and inspired by Celtic traditions of honor and loyalty. My **faith in God** has been my anchor throughout these turbulent times. I believe that truth will prevail and that the Lord knows my heart and my sincerity. It is this faith that gives me the strength to persevere in my quest for justice. I remain determined to rebuild my life, to contribute positively to my community, and to reclaim my good name and professional standing. I hold no malice towards those who wronged me; I leave judgment of them to a higher power. My focus is on restoring my own life and doing right by my family, my community, and my God.

Signed and Sealed by Faith,

Devon Tyler Barber (*Petitioner*)  Dated: Sunday, JULY 27, A.D., 2025

I certify under penalty of perjury and pursuant to New Jersey Court Rule 1:4-4(d) 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.