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# 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.

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## NOTICE OF MOTION TO VACATE PLEA AND DISMISS INDICTMENTS

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### 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.

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# 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(f)X, A.R.R.

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

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# STATE OF NEW JERSEY

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

STATE OF NEW JERSEY, Indictment Nos.: 22-09-01413-I; 22-10-01440-I  
Plaintiff, 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 AER. Date: 08/26/2025

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

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# 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

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### 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

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# 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

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## 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

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 both the statutory duty and the administrative infrastructure to obtain these records and to ensure that the record before the Court is complete.

Accordingly, Defendant respectfully requests that, **in the alternative to immediate vacatur and dismissal with prejudice**, the Court direct the Office of the Public Defender to obtain and produce the above-listed records and transcripts, and thereafter schedule an evidentiary hearing pursuant to **N.J. Ct. R. 3:22-10**.

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

BY: Devon Tyler, A.R.R. X(H)  
 Devon Tyler Barber  
 Defendant, pro se, *sui juris* (pending advisory counsel) Date: 08/26/2025

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# 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

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### 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 \_\_\_\_\_ day of \_\_\_\_\_, 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.

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Hon. \_\_\_\_\_, J.S.C.

Judge of the Superior Court

Form of Order Respectfully Submitted by:

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

Devon Tyler Barber

Defendant, pro se, sui juris

Dated: AUGUST 26<sup>th</sup>, 2025 A.D.

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# 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**

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## **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/AB, A.R.R.

Devon Tyler Barber

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

Date: 08/26/2025

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# 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

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

1. On August 26<sup>th</sup>, 2025, I electronically filed the foregoing motion papers through the New Jersey Judiciary Electronic Document Submission (JEDS) system.
2. On the same date, 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 26<sup>th</sup> A.D., 2025