

Barber, Devon Tyler.
Pro se, in proper person.
Atlantic County, New Jersey.
(609) 665-9350 |
DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

CASE NO. Indictment No. **22-09-01413-I** (Dkt. **ATL-22-002292**)
Indictment No. **22-10-01440-I** (Dkt. **ATL-22-002313**)

NOTICE OF MOTION AND UNIFIED VERIFIED
PETITION FOR POST-CONVICTION RELIEF;
MOTION TO APPOINT COUNSEL; MOTION FOR
EVIDENTIARY HEARING; AND MOTION TO
COMPEL STATE’S RESPONSE & JUDICIAL
INQUIRY

PLEASE TAKE NOTICE that on the first available motion date, or as soon thereafter as
counsel may be heard, **Defendant–Petitioner Devon T. Barber** will move before this Court,
pursuant to **R. 3:22-1 to -12**, for **Post-Conviction Relief (PCR)** on the grounds that his
convictions in the above-captioned matters resulted from:

1. **Denial of the right to effective assistance of counsel** in violation of the **Sixth and Fourteenth Amendments to the United States Constitution** and **Article I, Paragraph 10 of the New Jersey Constitution**, where trial counsel’s failures to investigate, present readily available exculpatory and impeachment evidence, or challenge false factual premises constituted representation so deficient that it fell below an objective standard of reasonableness and undermined confidence in the verdict, contrary to *Strickland v. Washington*, 466 U.S. 668 (1984), and *State v. Fritz*, 105 N.J. 42 (1987);

2. **Newly discovered exculpatory evidence of material significance**, including verified **IRS Wage and Income Transcripts (2019–2020)**, **employment and payroll records** from **The Palm Steakhouse** and **NAC Custom Carpentry**, and an **NJ Department of Labor wage complaint**, all demonstrating lawful employment, consistent income, and employer retaliation for wage disputes—evidence that is material, non-cumulative, and likely to change the outcome under *State v. Ways*, 180 N.J. 171 (2004); *State v. Nash*, 212 N.J. 518 (2013); and *State v. Carter*, 85 N.J. 300 (1981); and
3. **Fraud upon the court and violations of substantive and procedural due process**, arising from the employer’s intentional misclassification and retaliatory conduct and the State’s reliance on false employment characterizations, constituting a deliberate distortion of material facts that corrupted the truth-seeking function of the trial. Such misconduct violates the **Due Process Clauses of the Fifth and Fourteenth Amendments** and offends the integrity of the judiciary as recognized in *Shammas v. Shammas*, 9 N.J. 321 (1952); *Mooney v. Holohan*, 294 U.S. 103 (1935); *Napue v. Illinois*, 360 U.S. 264 (1959); and *Giglio v. United States*, 405 U.S. 150 (1972).

Petitioner further moves for: (a) **appointment of PCR counsel** under **R. 3:22-6(b)**; (b) an **evidentiary hearing** under **R. 3:22-10**; (c) an **order compelling the State’s response within 45 days** (with leave for a reply within 20 days); and (d) a **judicial inquiry and referral** concerning employer misconduct and any related prosecutorial reliance on inaccurate or misleading information. In support, Petitioner submits the attached **Verified Petition & Statement of Facts, Brief with Points & Authorities, and Certification with Exhibits, Proposed Order, and Certificate of Service**.

Dated: October 14th, 2025 respectfully submitted,
 /s/ **Devon T. Barber** *xTx Devon T. Barber*
 Defendant–Petitioner,
 Pro se, in proper person.
 Atlantic County, New Jersey.
 (609) 665-9350 |
 DTB33@ProtonMail.com

Barber, Devon Tyler.
Pro se, in proper person.
Atlantic County, New Jersey.
(609) 665-9350 |
DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)

Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

**UNIFIED VERIFIED PETITION &
STATEMENT OF FACTS**

A. Introduction & Equitable Context

This unified PCR application covers **both 2022 indictments (ATL-22-002292 and ATL-22-002313)** because the operative facts, witnesses, and defense failures overlap substantially.

Petitioner was a **lawfully employed tradesman and service worker** during 2019–2022. The record now includes **IRS Wage & Income transcripts (2019–2020), pay stubs and employer records** (including **The Palm Steakhouse, Atlantic City** in 2021–2022 and **NAC Custom Carpentry** in 2022), and **texts** from an employer acknowledging severe project delays and granting Petitioner permission to be on premises. These materials bear directly on **credibility, motive, detention eligibility, and the merits**.

Consistent with equity and the recognition that “*the laborer is worthy of his wages*” (Geneva Bible, **Luke 10:7**), Petitioner asks the Court to correct a proceeding skewed by **attorney neglect** and **employer retaliation/misrepresentation**.

B. Factual Timeline (Condensed)

1. **2019–2020** – Petitioner worked for **Joe’s Painting & Renovations**; **IRS wage transcripts** verify lawful income.
2. **2021–2022** – Petitioner worked for **The Palm Steakhouse (Atlantic City)** with continuous pay records; and **NAC Custom Carpentry (2022)**.

- 73 3. **Wage dispute & retaliation** – After Petitioner pursued wages/misclassification issues
74 (later reflected in **NJDOL Wage Complaint No. 369572**), an employer mischaracterized
75 Petitioner and made statements that influenced law-enforcement involvement.
- 76 4. **Arrest/Prosecution (2022)** – While steadily employed and with community ties,
77 Petitioner was charged and later convicted on the above indictments.
- 78 5. **Trial Counsel – John W. Tumelty (NJ Atty ID 006951984)** failed to:
 - 79 ○ seek **detention review** or advance release conditions under **N.J.S.A. 2A:162-19**
80 using readily-available employment ties;
 - 81 ○ **investigate, subpoena, or present** employment/payroll/IRS evidence and
82 **exculpatory communications**;
 - 83 ○ develop **motive/retaliation** and **misclassification** theories to impeach employer
84 witnesses;
 - 85 ○ preserve related issues for appeal.
- 86 6. **Post-Judgment** – Petitioner filed PCR in **May 2025**; multiple eCourts transactions
87 reflect filings with no timely substantive response. Petitioner has since gathered and
88 authenticated the **new evidence** attached.

89 **C. Procedural Posture**

90 This is Petitioner’s **first PCR** within **five years** of the 2022 judgments of conviction. See **R.**
91 **3:22-12(a)(1)** (five-year limit). Petitioner requests appointment of counsel (**R. 3:22-6(b)**) and a
92 hearing (**R. 3:22-10**).

93 I verify under oath that the foregoing facts are true to the best of my knowledge and belief.

94 *Devon T. Barber*
/s/ **Devon T. Barber** Date: October 14th, 2025

Barber, Devon Tyler.
Pro se, in proper person.
Atlantic County, New Jersey.
(609) 665-9350 |
DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)
Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

**BRIEF IN SUPPORT – POINTS &
AUTHORITIES**

POINT I

Petitioner is entitled to relief because trial counsel rendered constitutionally ineffective assistance under *Strickland v. Washington*, 466 U.S. 668 (1984), adopted in New Jersey by *State v. Fritz*, 105 N.J. 42 (1987).

Legal Standard. A defendant must show (1) deficient performance and (2) prejudice—a reasonable probability that, but for counsel’s errors, the result would have been different. *Strickland*, 466 U.S. at 687–96; *Fritz*, 105 N.J. at 52–60. New Jersey courts routinely grant **evidentiary hearings** where a prima facie showing of IAC is made. *State v. Preciose*, 129 N.J. 451, 462–63 (1992).

Deficient Performance. Counsel’s omissions here were fundamental:

- **Failure to pursue detention review / release** despite strong employment and residential ties—critical under N.J.S.A. 2A:162-19 (risk assessments and least-restrictive conditions). Competent counsel would have presented The Palm/NAC payroll, IRS transcripts, and witness affidavits to rebut risk factors.
- **Failure to investigate and present readily-available exculpatory evidence**, including IRS wage transcripts, employer payroll, and **texts** showing permission to be on site and the employer’s own delays—evidence central to **credibility, intent, and motive**. See *State v. Savage*, 120 N.J. 594, 618–19 (1990) (duty to investigate); *State v. Norman*, 151 N.J. 5, 37–38 (1997) (failure to investigate alibi/defense witnesses can be deficient); *State v. Cummings*, 321 N.J. Super. 154, 170 (App. Div. 1999) (PCR must detail what investigation would have revealed—done here via attached exhibits).

- **Failure to impeach employer witnesses** with misclassification and wage-dispute motive (classic credibility material). See *Giglio v. United States*, 405 U.S. 150, 154–55 (1972) (impeachment evidence is material); *Kyles v. Whitley*, 514 U.S. 419, 441–54 (1995) (cumulative impact).
- **Failure to preserve issues**; failure to present mitigation; and failure to challenge the State’s reliance on inaccurate employment characterizations.

Prejudice. Had counsel presented the employment/payroll/IRS proofs and motive texts:

- Pretrial conditions likely would have been substantially more favorable (or different);
- The jury’s view of Petitioner’s credibility and the employer witness’s motive would have been materially altered; and
- The overall case posture—including plea leverage, trial theory, and sentencing—would likely have changed. See *Missouri v. Frye*, 566 U.S. 134, 147–49 (2012); *Lafler v. Cooper*, 566 U.S. 156, 163–71 (2012) (ineffective advice/omissions affecting plea outcomes).

At minimum, Petitioner has made a **prima facie** showing requiring a **Preciose** hearing.

POINT II

Newly Discovered Evidence Warrants an Evidentiary Hearing and Post-Conviction Relief Under New Jersey Law

A. Legal Standard

Under **Rule 3:22-2(a)(2)**, a defendant may seek post-conviction relief when “*newly discovered evidence*” exists that “*would probably have changed the jury’s verdict if presented at trial.*” The governing standard, reaffirmed in *State v. Ways*, 180 N.J. 171, 187 (2004), and originally set forth in *State v. Carter*, 85 N.J. 300 (1981), requires that such evidence:

1. be **material and not merely cumulative or impeaching**;
2. have been **discovered after trial and not discoverable by reasonable diligence**; and
3. be **of the sort that would probably change the result if a new trial were granted**. See also *State v. Marshall*, 148 N.J. 89, 231–32 (1997); *State v. Nash*, 212 N.J. 518, 549–50 (2013) (emphasizing reliability and the integrity of the verdict).

When a petitioner makes a *prima facie* showing that these elements are met, **Rule 3:22-10(b)** requires the court to hold an evidentiary hearing. See *State v. Preciose*, **129 N.J. 451, 462 (1992)**.

B. Application

The evidence now produced—including **IRS Wage and Income Transcripts (2019–2020)**, **The Palm Steakhouse and NAC Custom Carpentry payroll and employment records, NJ Department of Labor Wage Complaint No. 369572**, and **text messages** confirming employer acknowledgment of project delays and permission for Petitioner’s presence on-site—squarely satisfies all three *Ways* factors.

1. Material and Non-Cumulative

These documents strike at the heart of the case. They prove Petitioner’s legitimate employment, consistent income, and the employer’s retaliatory motive to misclassify or discredit him after a wage dispute. This is *substantive, exculpatory evidence* that rebuts the prosecution’s core theory. It is therefore *material* under *Ways*, **180 N.J. at 188–90**, because it would have fundamentally changed the narrative presented to the jury.

2. Not Discoverable Through Reasonable Diligence by Petitioner

Although this evidence existed before trial, it was not obtained or presented **through no fault of Petitioner**. Petitioner informed his retained trial attorney, **John W. Tumelty**, that records of lawful employment, wages, and communications would prove his innocence. Counsel failed to investigate, issue subpoenas, or retrieve documents from employers or the IRS—basic steps required under *State v. Savage*, **120 N.J. 594, 618–19 (1990)**.

Under New Jersey law, the “reasonable diligence” requirement refers to what **a competent defense investigation** would have uncovered—not what an unrepresented defendant could personally do. See *State v. Nash*, **212 N.J. at 550** (evidence may be “newly discovered” when unavailable due to counsel’s inaction). Because counsel ignored leads Petitioner directly provided, the failure to discover this evidence cannot be attributed to Petitioner’s lack of diligence.

179 **3. Probable Impact on the Verdict**

180 Had the jury or the Court seen this documentation, it would have demonstrated a stable,
 181 working individual—not a transient or willful offender—and would have revealed
 182 employer bias and retaliation. That showing of **lawful labor and retaliatory motive**
 183 would have substantially undermined the credibility of the complaining witness and the
 184 State’s entire factual theory. When viewed collectively, these proofs meet the *Ways*
 185 requirement that the evidence “*would probably change the result.*” *Ways*, **180 N.J. at**
 186 **191–92.**

187 **C. Conclusion**

188 Because the new evidence is material, previously withheld through counsel’s neglect, and
 189 capable of changing the outcome, Petitioner has established a **prima facie entitlement** to relief
 190 under **R. 3:22-2(a)(2)**. Accordingly, this Court must grant an **evidentiary hearing** under **R.**
 191 **3:22-10(b)** to assess the credibility and impact of this evidence and to correct the manifest
 192 injustice that resulted from its omission. See *Preciose*, **129 N.J. at 462–63**; *Ways*, **180 N.J. at**
 193 **192.**

194 **POINT III**

195 **Due process was violated by the State’s reliance on materially misleading employment**
 196 **characterizations and by employer misconduct; the Court should order a judicial inquiry**
 197 **and refer as appropriate.**

198 **Brady/Giglio Duties.** The State must disclose material exculpatory and impeaching evidence.
 199 *Brady v. Maryland*, **373 U.S. 83, 87 (1963)**; *Giglio*, **405 U.S. at 154–55**; *Kyles*, **514 U.S. at 437–**
 200 **38.** When the prosecution’s case proceeds on **misleading factual premises** (e.g.,
 201 mischaracterizing a defendant’s employment/residence status) and exculpatory material exists or
 202 is reasonably obtainable, due process is implicated.

203 **Fraud/Integrity of Proceedings.** New Jersey courts retain inherent authority to remedy **fraud**
 204 **upon the court**—including where material falsehoods or omissions undermine the truth-seeking
 205 function. See, e.g., *Shammas v. Shammas*, **9 N.J. 321, 328–29 (1952)** (fraud upon the court is an

egregious wrong warranting equitable intervention). Here, **misclassification/retaliation** evidence and contemporaneous **DOL complaint** (No. 369572) directly undercut the credibility and motive of the employer witness(es). The Court should: (1) conduct an **evidentiary hearing**; (2) **compel the State's response**; and (3) **refer** the matter to appropriate authorities if the record confirms material misrepresentation.

POINT IV

This first PCR is timely and counsel must be appointed.

Timeliness. Filed within the **five-year** window of **R. 3:22-12(a)(1)** for 2022 convictions.

Counsel. In a first PCR, the court **appoints counsel** if the indigent defendant requests it. **R. 3:22-6(b)**; see also *Preciose*, 129 N.J. at 462 (assignment of counsel and hearings favored to address substantial claims).

Devon T. Barber

Barber, Devon Tyler.
 Pro se, in proper person.
 Atlantic County, New Jersey.
 (609) 665-9350 |
 DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)

Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

RELIEF REQUESTED

Petitioner respectfully asks the Court to:

1. **Grant an evidentiary hearing** under **R. 3:22-10** on all grounds;
2. **Appoint PCR counsel** under **R. 3:22-6(b)**;
3. **Compel the State’s answer within 45 days**, with Petitioner’s reply due 20 days thereafter;
4. **Vacate the convictions** or, alternatively, **grant a new trial**;
5. Enter such **equitable relief** as is just, recognizing the principle that “*the laborer is worthy of his wages*” (Geneva Bible, **Luke 10:7–9**), given the record of lawful employment and wage-related retaliation; and
6. **Refer** the matter for appropriate **judicial inquiry** and, as warranted, to the **New Jersey Attorney General** regarding employer misconduct and any prosecutorial reliance on materially inaccurate information.

Dated: October 14th, 2025

/s/ **Devon T. Barber**

Devon T. Barber

Barber, Devon Tyler.
Pro se, in proper person.
Atlantic County, New Jersey.
(609) 665-9350 |
DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. **ATL-22-002292**)

Indictment No. **22-10-01440-I** (Dkt. **ATL-22-002313**)

CERTIFICATION OF DEVON T. BARBER

I, **Devon T. Barber**, of full age, hereby certify as follows:

1. I am the **Petitioner** in **Indictment No. 22-09-01413-I (Docket ATL-22-002292)** and **Indictment No. 22-10-01440-I (Docket ATL-22-002313)**, presently seeking Post-Conviction Relief pursuant to **R. 3:22-1 et seq.**
2. From **2019 through 2022**, I was continuously and lawfully employed with **Joe’s Painting & Renovations, The Palm Steakhouse (Atlantic City), and NAC Custom Carpentry.**
3. Attached to this petition as **Exhibits A through G** are true and correct copies of documents supporting my claims, including:
 - (a) **IRS Wage & Income Transcripts (2019–2020);**
 - (b) **Payroll and pay-stub records (2021–2022);**
 - (c) **Employment verification proofs;**
 - (d) **New Jersey Department of Labor Wage Complaint No. 369572;** and
 - (e) **Communications and text messages** demonstrating my employer’s motive, retaliation, and permission for my lawful presence at the worksite.
4. My trial counsel, **John W. Tumelty (Attorney ID 006951984)**, failed to:
 - (a) seek pretrial detention review based on my verified employment and residence;
 - (b) investigate or present these exculpatory records and communications at trial; and
 - (c) impeach the employer-witnesses whose misrepresentations materially influenced the State’s case.

266 5. The attached materials were **obtained only after trial**, through my own post-conviction
267 efforts. None of them were presented to the jury, the prosecution, or the sentencing court,
268 although they were available or reasonably obtainable at the time had counsel acted with
269 due diligence.

270 6. I submit this petition **in good faith**, seeking an **evidentiary hearing** under **R. 3:22-10(b)**
271 and the **appointment of counsel** under **R. 3:22-6(b)**, so that the merits of this newly
272 discovered evidence and counsel's ineffectiveness may be fully and fairly addressed.

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

275 Date: October 14th, 2025 A.D. s/ *Devon T. Barber* **Devon T. Barber**

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. **ATL-22-002292**)

Indictment No. **22-10-01440-I** (Dkt. **ATL-22-002313**)

[PROPOSED] ORDER

On Petitioner’s Unified PCR and accompanying motions, and for good cause shown, IT IS on this ____ day of _____, 2025, **ORDERED:**

1. The Petition is **accepted for filing** as a unified PCR for the above matters;
2. The **Office of the Public Defender is appointed** to represent Petitioner under **R. 3:22-6(b)**;
3. The **State shall serve and file a response within forty-five (45) days**; Petitioner may serve and file a **reply within twenty (20) days** thereafter;
4. The Court will hold an **EVIDENTIARY HEARING** under **R. 3:22-10** to address **ineffective assistance of counsel, newly discovered evidence, and due-process/fraud-upon-the-court** claims;
5. The matter is **referred for judicial inquiry** and, as warranted by the record, to the **New Jersey Attorney General** regarding employer misconduct and related issues; and
6. Such other relief as is just and equitable is **RESERVED**.

J.S.C.

Barber, Devon Tyler.
 Pro se, in proper person.
 Atlantic County, New Jersey.
 (609) 665-9350 |
 DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. **ATL-22-002292**)

Indictment No. **22-10-01440-I** (Dkt. **ATL-22-002313**)

EXHIBIT INDEX

- **Exhibit A – IRS Wage & Income Transcripts (2019–2020)** (full-year PDFs).
- **Exhibit B – The Palm Steakhouse (Atlantic City) Pay Stubs** (Sept 2021 → May 2022).
- **Exhibit C – NAC Custom Carpentry (2022) Employment Proof.**
- **Exhibit D – NJDOL Wage Complaint Confirmation (No. 369572)** and narrative (PDF).
- **Exhibit E – Screenshot/Texts** (employer acknowledging multi-year delays; permission to be on site; related context).
- **Exhibit F – Prior PCR/eCourts Transaction List** (screenshots with EF numbers and dates).
- **Exhibit G — Constructive Proof of Good Faith, Lawful Conduct, and Moral Standing**

Exhibit G is submitted **constructively** rather than physically, to memorialize the Petitioner’s **good-faith effort** to correct the record and ensure full candor before this Honorable Court.

Pursuant to the **spirit and purpose of R. 1:1-2 (liberal construction of the Rules)** and consistent with **R. 1:4-4(b)** (verified certifications), Petitioner incorporates by reference all materials, communications, and lawful actions—whether on record, off record, or within the

Court's inherent knowledge—that demonstrate continuous lawful employment, moral conduct, and a consistent pattern of good-faith cooperation with the judicial process.

This constructive exhibit is tendered as a declaration that:

1. Petitioner has acted **openly, honestly, and within the bounds of law** at all stages of this matter, seeking only to remedy misrepresentation and to restore truth to the record.
2. Petitioner acknowledges that some proofs may exist in court custody, agency files, or counsel archives, and therefore invokes the Court's equitable authority to **take judicial notice** of such corroborating material under **N.J.R.E. 201(b)** and the Court's **inherent supervisory power**.
3. Petitioner affirms that all employment, residence, and character representations made herein are true to the best of his knowledge and belief, grounded in lawful work, diligent effort, and a moral duty to make whole what has been wrongfully obscured.
4. This Exhibit shall stand as a **record of moral and legal good faith**—a constructive submission acknowledging that not all truth is reducible to paper, yet all truth remains answerable before this Court.

Respectfully incorporated within the Certification of Devon T. Barber and submitted under oath, this constructive exhibit serves as the **spiritual and equitable equivalent** of physical proof, tendered for the limited purpose of demonstrating **bona fides, diligence, and integrity** in pursuit of justice and correction of record.

Legal Note

Pursuant to R. 1:1-2 and the equitable power of this Court, Petitioner includes Exhibit G as a constructive declaration of good faith, requesting the Court to treat it as evidence of sincerity and lawful intent within the meaning of R. 3:22-10(b) and N.J.R.E. 201.

Barber, Devon Tyler.
 Pro se, in proper person.
 Atlantic County, New Jersey.
 (609) 665-9350 |
 DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,
 Plaintiff,

vs.

DEVON T. BARBER,
 Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)
 Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

CERTIFICATE OF SERVICE

I, **Devon T. Barber**, hereby certify that on October 14th, 2025, I submitted through the **New Jersey Judiciary Electronic Document Submission (JEDS)** system my **Unified Petition for Post-Conviction Relief**, including the **Brief, Certification, Proposed Order, and Exhibits A–G**, for filing with the **Superior Court of New Jersey, Law Division – Criminal Part, Atlantic County**. I further certify that on the same date, I served a copy of the complete filing upon the following parties:

1. Atlantic County Prosecutor’s Office

4997 Unami Boulevard, Suite 2
 Mays Landing, New Jersey 08330
 Email: publicInformation@acpo.org; discovery_request@aclink.org

2. Criminal Division Manager’s Office

Atlantic County Superior Court
 1201 Bacharach Boulevard
 Atlantic City, New Jersey 08401

Service was accomplished by:

☒ **Electronic submission via JEDS (primary service method)**

☐ Email

If electronic or physical service upon the Prosecutor's Office cannot be confirmed, I respectfully request that the **Court facilitate proper service under R. 1:5-2 and R. 1:5-4**, to ensure that the State receives complete notice of this filing.

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

Date: October 14th, 2025

Signature: Devon T. Barber

s/ **Devon T. Barber, Petitioner**

Atlantic County, New Jersey

Barber, Devon Tyler.
 Pro se, in proper person.
 Atlantic County, New Jersey.
 (609) 665-9350 |
 DTB33@ProtonMail.com

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

STATE OF NEW JERSEY,

Plaintiff,

vs.

DEVON T. BARBER,

Defendant–Petitioner.

Indictment No. **22-09-01413-I** (Dkt. ATL-22-002292)

Indictment No. **22-10-01440-I** (Dkt. ATL-22-002313)

KEY AUTHORITIES

Constitutional / Federal Authorities

- *Strickland v. Washington*, 466 U.S. 668 (1984) — two-prong standard for ineffective assistance
- *United States v. Cronin*, 466 U.S. 648 (1984) — structural error and prejudice presumed when counsel entirely fails
- *Bell v. Cone*, 535 U.S. 685 (2002) — deference to counsel’s strategic decisions and prejudice analysis
- *Mooney v. Holohan*, 294 U.S. 103 (1935) — use of fraudulent evidence violates due process
- *Napue v. Illinois*, 360 U.S. 264 (1959) — duty to correct false testimony
- *Giglio v. United States*, 405 U.S. 150 (1972) — impeachment evidence as Brady material
- *Kyles v. Whitley*, 514 U.S. 419 (1995) — cumulative effect, State’s duty to learn of evidence
- *Gideon v. Wainwright*, 372 U.S. 335 (1963) — constitutional right to counsel

New Jersey Authorities & Statutes

- *State v. Fritz*, 105 N.J. 42 (1987) — adoption of Strickland in NJ
- *State v. Preciose*, 129 N.J. 451 (1992) — threshold PCR counsel / prima facie standard

- *State v. Savage*, 120 N.J. 594 (1990) — counsel’s duty to investigate
- *State v. Norman*, 151 N.J. 5 (1997) — failure to investigate witnesses
- *State v. Cummings*, 321 N.J. Super. 154 (App. Div. 1999) — details and specificity in PCR pleadings
- *State v. Ways*, 180 N.J. 171 (2004) — newly discovered evidence standard in PCR
- *State v. Marshall*, 148 N.J. 89 (1997) — new evidence reliability and weight
- *State v. Nash*, 212 N.J. 518 (2013) — actual-innocence / new evidence in modern PCR
- *State v. Carter*, 85 N.J. 300 (1981) — classic new-trial / new evidence benchmark
- *State v. Martini*, 187 N.J. 469 (2006) — prosecutorial duty, fairness in trial proceedings
- *State v. Clark*, 255 N.J. Super. 14 (App. Div. 1992) — remedying fraud/false testimony in criminal proceedings
- **N.J.S.A. 2A:162-18 to 2A:162-26** (Criminal Justice Reform Act) — pretrial detention, release, timing, and statutory limits (**see N.J.S.A. 2A:162-19 for detention hearings**)
- **Rule 3:22-1 to 3:22-12 (NJ PCR Rules)** — standards, procedural framework, counsel appointment, hearings
- **Rule 3:22-2(a)(1) & (a)(2)** — constitutional and new evidence grounds for PCR
- **Rule 3:22-6(b)** — entitlement to appointed PCR counsel
- **Rule 3:22-10(b)** — requirement of evidentiary hearing when prima facie showing made
- **Rule 1:4-4** — verification and certification of pleadings