

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY – CAMDEN VICINAGE

DEVON TYLER BARBER,
Plaintiff, pro se,

Civil Action No. 22-06206 (KMW-EAP)

RECEIVED

v

SEP 02 2025

JOSEPH HARDEMON, JR., et al.,
Defendants.

AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

NOTICE OF MOTION TO REOPEN PURSUANT TO FED. R. CIV. P. 60(b)(6)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S RULE 60(b)(6) MOTION

I. INTRODUCTION

This case was closed for a **non-merits, procedural** reason: failure to update address under *D.N.J. L. Civ. R. 10.1(a)* during a period when Plaintiff was in custody and without stable housing. Reopening is warranted under *Fed. R. Civ. P. 60(b)(6)* due to extraordinary circumstances and the strong policy favoring resolution on the merits.

II. GOVERNING RULES

A. Rule 60(b)(6) and Rule 60(c)(1). Rule 60(b)(6) permits relief for “**any other reason that justifies relief**,” available only in **extraordinary circumstances**, and the motion must be made within a **reasonable time**. *Fed. R. Civ. P. 60(b)(6), 60(c)(1); Budget Blinds, Inc. v. White*, 536 F.3d 244, 255 (3d Cir. 2008). The Supreme Court recently reaffirmed strict limits and the extraordinary-circumstances requirement for Rule 60(b)(6). See, e.g., *Waetzig v. Halliburton Energy Servs., Inc.*, No. 23-971, slip op. at 4–14 (U.S. Feb. 26, 2025) (clarifying Rule 60(b) reach).

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B. Local Rule 10.1(a). Unrepresented parties must notify the Court of any address change within seven days; failure may result in sanctions or administrative termination. *D.N.J. L. Civ. R.* 10.1(a).

III. ARGUMENT

A. Extraordinary Circumstances Warrant Reopening (Rule 60(b)(6)).

Plaintiff's noncompliance arose while he was under probation/custody and experiencing housing instability that **prevented actual notice** and timely response. The dismissal occurred **before service** and without any merits determination. Those features—lack of notice, non-appearance by defendants, and non-merits closure—constitute the kind of **extraordinary circumstances** appropriate for Rule 60(b)(6) relief within a reasonable time. See *Budget Blinds*, 536 F.3d at 255.

B. No Prejudice; Strong Policy Favoring Merits Determinations.

Because defendants were never served, **reopening imposes no cognizable prejudice**. The Third Circuit favors decisions on the merits where feasible. See *United States v. \$55,518.05 in U.S. Currency*, 728 F.2d at 194–95.

C. The Court Should Also Consider the Stakes Reflected in the Record.

Plaintiff's PCR filings and employment records (Exs. A–E) show reputational and economic harms driven by **unreliable hearsay** and disregard of exculpatory work history. While the present motion addresses procedure, these materials underscore why adjudication **on the merits** is warranted now that Plaintiff can participate meaningfully.

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IV. CONCLUSION

For the foregoing reasons, the Court should grant relief under *Fed. R. Civ. P.* 60(b)(6), reopen the matter, update Plaintiff's address, and allow thirty (30) days to file an Amended Complaint.

Respectfully submitted,

BY:X(T)X Devon Tyler A.R.R.
/s/ Devon Tyler Barber, Pro Se Plaintiff

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Dated: August 27, 2025
