

1 Barber, Devon Tyler.
2 Pro se, in proper person.
3 Atlantic County, New Jersey.
4 (609) 665-9350 |
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6 **SUPERIOR COURT OF NEW JERSEY**

7 **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

8
9 **PLEASE TAKE NOTICE** that on the first available motion date, or as soon thereafter as
10 counsel may be heard, **Defendant–Petitioner Devon T. Barber** will move before this Court,
11 pursuant to **R. 3:22-1 to -12**, for **Post-Conviction Relief (PCR)** on the grounds that his
12 convictions in the above-captioned matters resulted from:

- 13 1. **Denial of the right to effective assistance of counsel** in violation of the **Sixth and**
14 **Fourteenth Amendments to the United States Constitution** and **Article I, Paragraph**
15 **10 of the New Jersey Constitution**, where trial counsel's failures to investigate, present
16 readily available exculpatory and impeachment evidence, or challenge false factual
17 premises constituted representation so deficient that it fell below an objective standard of
18 reasonableness and undermined confidence in the verdict, contrary to *Strickland v.*
19 *Washington*, 466 U.S. 668 (1984), and *State v. Fritz*, 105 N.J. 42 (1987);

- 20 2. **Newly discovered exculpatory evidence of material significance**, including verified
21 **IRS Wage and Income Transcripts (2019–2020), employment and payroll records**
22 from **The Palm Steakhouse** and **NAC Custom Carpentry**, and an **NJ Department of**
23 **Labor wage complaint**, all demonstrating lawful employment, consistent income, and
24 employer retaliation for wage disputes—evidence that is material, non-cumulative, and
25 likely to change the outcome under *State v. Ways*, 180 N.J. 171 (2004); *State v. Nash*, 212
26 N.J. 518 (2013); and *State v. Carter*, 85 N.J. 300 (1981); and
- 27 3. **Fraud upon the court and violations of substantive and procedural due process**,
28 arising from the employer’s intentional misclassification and retaliatory conduct and the
29 State’s reliance on false employment characterizations, constituting a deliberate distortion
30 of material facts that corrupted the truth-seeking function of the trial. Such misconduct
31 violates the **Due Process Clauses of the Fifth and Fourteenth Amendments** and
32 offends the integrity of the judiciary as recognized in *Shammas v. Shammas*, 9 N.J. 321
33 (1952); *Mooney v. Holohan*, 294 U.S. 103 (1935); *Napue v. Illinois*, 360 U.S. 264 (1959);
34 and *Giglio v. United States*, 405 U.S. 150 (1972).

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

42 Dated: October 14th, 2025 respectfully submitted,
43 /s/ **Devon T. Barber** *xTx* **Devon T. Barber**
44 Defendant–Petitioner,
45 Pro se, in proper person.
46 Atlantic County, New Jersey.
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54 **SUPERIOR COURT OF NEW JERSEY**

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**UNIFIED VERIFIED PETITION &
 STATEMENT OF FACTS**

56 **A. Introduction & Equitable Context**

57 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.
 58 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**.

60 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**.

68 **B. Factual Timeline (Condensed)**

- 69 1. **2019–2020** – Petitioner worked for **Joe’s Painting & Renovations; IRS wage transcripts** verify lawful income.
- 70 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

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100 **SUPERIOR COURT OF NEW JERSEY**101 **LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY**

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**BRIEF IN SUPPORT – POINTS &
 AUTHORITIES**

102 **POINT I**

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

106 **Legal Standard.** A defendant must show (1) deficient performance and (2) prejudice—a
 107 reasonable probability that, but for counsel’s errors, the result would have been different.
 108 *Strickland*, 466 U.S. at 687–96; *Fritz*, 105 N.J. at 52–60. New Jersey courts routinely grant
 109 **evidentiary hearings** where a prima facie showing of IAC is made. *State v. Preciose*, 129 N.J.
 110 451, 462–63 (1992).

111 **Deficient Performance.** Counsel’s omissions here were fundamental:

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

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

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

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

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

138 POINT II

139 Newly Discovered Evidence Warrants an Evidentiary Hearing and Post-Conviction Relief 140 Under New Jersey Law

141 A. Legal Standard

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

- 146 1. be **material and not merely cumulative or impeaching**;
- 147 2. have been **discovered after trial and not discoverable by reasonable diligence**; and
- 148 3. be **of the sort that would probably change the result if a new trial were granted**.
149 See also *State v. Marshall*, 148 N.J. 89, 231–32 (1997); *State v. Nash*, 212 N.J. 518,
150 549–50 (2013) (emphasizing reliability and the integrity of the verdict).

151 When a petitioner makes a *prima facie* showing that these elements are met, **Rule 3:22-10(b)**
152 requires the court to hold an evidentiary hearing. See *State v. Preciose*, **129 N.J. 451, 462**
153 (**1992**).

154 **B. Application**

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

160 **1. Material and Non-Cumulative**

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

166 **2. Not Discoverable Through Reasonable Diligence by Petitioner**

167 Although this evidence existed before trial, it was not obtained or presented **through no**
168 **fault of Petitioner**. Petitioner informed his retained trial attorney, **John W. Tumelty**,
169 that records of lawful employment, wages, and communications would prove his
170 innocence. Counsel failed to investigate, issue subpoenas, or retrieve documents from
171 employers or the IRS—basic steps required under *State v. Savage*, **120 N.J. 594, 618–19**
172 (**1990**).

173 Under New Jersey law, the “reasonable diligence” requirement refers to what **a**
174 **competent defense investigation** would have uncovered—not what an unrepresented
175 defendant could personally do. See *State v. Nash*, **212 N.J. at 550** (evidence may be
176 “newly discovered” when unavailable due to counsel’s inaction). Because counsel
177 ignored leads Petitioner directly provided, the failure to discover this evidence cannot be
178 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

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

211 **POINT IV**

212 **This first PCR is timely and counsel must be appointed.**

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

214 **Counsel.** In a first PCR, the court **appoints counsel** if the indigent defendant requests it. **R.**
215 **3:22-6(b);** see also **Preciose**, **129 N.J. at 462** (assignment of counsel and hearings favored to
216 address substantial claims).

217 *xTx Devon T. Barber*

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223 **SUPERIOR COURT OF NEW JERSEY**

224 **LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY**

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RELIEF REQUESTED

225 Petitioner respectfully asks the Court to:

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

237 Dated: October 14th, 2025

238 /s/ **Devon T. Barber**

Devon T. Barber

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244 **SUPERIOR COURT OF NEW JERSEY**

245 **LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY**

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**CERTIFICATION OF DEVON T.
BARBER**

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

- 247 1. I am the **Petitioner** in **Indictment No. 22-09-01413-I (Docket ATL-22-002292)** and
248 **Indictment No. 22-10-01440-I (Docket ATL-22-002313)**, presently seeking Post-
249 Conviction Relief pursuant to **R. 3:22-1 et seq.**
- 250 2. From **2019 through 2022**, I was continuously and lawfully employed with **Joe's**
251 **Painting & Renovations, The Palm Steakhouse (Atlantic City)**, and **NAC Custom**
252 **Carpentry**.
- 253 3. Attached to this petition as **Exhibits A through G** are true and correct copies of
254 documents supporting my claims, including:
 - 255 (a) **IRS Wage & Income Transcripts (2019–2020);**
 - 256 (b) **Payroll and pay-stub records (2021–2022);**
 - 257 (c) **Employment verification proofs;**
 - 258 (d) **New Jersey Department of Labor Wage Complaint No. 369572;** and
 - 259 (e) **Communications and text messages** demonstrating my employer's motive,
260 retaliation, and permission for my lawful presence at the worksite.
- 261 4. My trial counsel, **John W. Tumelty (Attorney ID 006951984)**, failed to:
 - 262 (a) seek pretrial detention review based on my verified employment and residence;
 - 263 (b) investigate or present these exculpatory records and communications at trial; and
 - 264 (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 *Devon T. Barber*

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

276 SUPERIOR COURT OF NEW JERSEY

277 LAW DIVISION – CRIMINAL PART, ATLANTIC COUNTY

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[PROPOSED] ORDER

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

- 280 1. The Petition is **accepted for filing** as a unified PCR for the above matters;
- 281 2. The **Office of the Public Defender is appointed** to represent Petitioner under **R. 3:22-**
282 **6(b)**;
- 283 3. The **State shall serve and file a response within forty-five (45) days**; Petitioner may
284 serve and file a **reply within twenty (20) days** thereafter;
- 285 4. The Court will hold an **EVIDENTIARY HEARING** under **R. 3:22-10** to address
286 **ineffective assistance of counsel, newly discovered evidence, and due-process/fraud-**
287 **upon-the-court** claims;
- 288 5. The matter is **referred for judicial inquiry** and, as warranted by the record, to the **New**
289 **Jersey Attorney General** regarding employer misconduct and related issues; and
- 290 6. Such other relief as is just and equitable is **RESERVED**.

291

292 J.S.C.

293

294

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300 **SUPERIOR COURT OF NEW JERSEY**

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EXHIBIT INDEX

- 302 • **Exhibit A – IRS Wage & Income Transcripts (2019–2020)** (full-year PDFs).
- 303 • **Exhibit B – The Palm Steakhouse (Atlantic City) Pay Stubs** (Sept 2021 → May
304 2022).
- 305 • **Exhibit C – NAC Custom Carpentry (2022) Employment Proof.**
- 306 • **Exhibit D – NJDOL Wage Complaint Confirmation (No. 369572)** and narrative
307 (PDF).
- 308 • **Exhibit E – Screenshot/Texts** (employer acknowledging multi-year delays; permission
309 to be on site; related context).
- 310 • **Exhibit F – Prior PCR/eCourts Transaction List** (screenshots with EF numbers and
311 dates).
- 312 • **Exhibit G — Constructive Proof of Good Faith, Lawful Conduct, and Moral Standing**

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

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

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

320 This constructive exhibit is tendered as a declaration that:

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

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

337 **Legal Note**

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

341

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347 **SUPERIOR COURT OF NEW JERSEY**

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CERTIFICATE OF SERVICE

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

355 **1. Atlantic County Prosecutor's Office**
356 4997 Unami Boulevard, Suite 2
357 Mays Landing, New Jersey 08330
358 Email: publicInformation@acpo.org; discovery_request@aclink.org

359 **2. Criminal Division Manager's Office**
360 Atlantic County Superior Court
361 1201 Bacharach Boulevard
362 Atlantic City, New Jersey 08401

363 Service was accomplished by:
364 **X Electronic submission via JEDS (primary service method)**
365 **X Email**

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

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

371
372 Date: October 14th, 2025
373 Signature: Devon T. Barber
374 s/ **Devon T. Barber, Petitioner**
375 Atlantic County, New Jersey

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381 **SUPERIOR COURT OF NEW JERSEY**

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

KEY AUTHORITIES

383 **Constitutional / Federal Authorities**

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

397 **New Jersey Authorities & Statutes**

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

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