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February 9, 2026

Honorable Chief Justice and  
Associate Justices of the  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, NJ 08625-0970

Re: State v. Corey J. Otte  
App. Div. Docket No. A-02183-23  
Sup. Docket No. 091685

Your Honors:

This letter is submitted in lieu of a formal brief pursuant to R. 2:6-2(b) on behalf of Defendant-Petitioner Corey J. Otte. Mr. Otte is seeking certification to review the Appellate Division’s decision affirming the denial of his motion to be admitted into the Pretrial Intervention (“PTI”) Program. State v. Corey J. Otte, A-2183-23, 2026 WL 71190 (App. Div. Unpub. January 9, 2026). (Dpa1-12)<sup>1</sup>

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<sup>1</sup> “Dpa” = Appendix to defendant’s petition for certification  
Appellate Division Opinion.....Dpa1-12  
Notice of Petition for Certification.....Dpa13-14  
“Db” = Defendant’s Appellate Division Brief  
“Da” = Defendant’s Appellate Division Appendix  
“Dca” = Defendant’s Confidential Appellate Division Appendix

Otte was charged with two counts of third-degree aggravated assault on a law enforcement officer, N.J.S.A. 2C:12-1(b)(5)(a), and one count of third-degree resisting arrest, N.J.S.A. 2C:29-2(a)(3)(b), following the events that occurred on April 10, 2023 – during a time in which Otte was struggling with severe symptoms of his psychiatric illness. (Db2-6) On August 28, 2023, Otte pled guilty to an amended charge of fourth-degree assault on a law enforcement officer, N.J.S.A. 2C:12-1(b)(5)(a). (Db2) Following the entry of his plea, defense counsel requested an “out-of-time order” allowing Otte to apply for PTI pending sentencing. (Db2) Without any objection from the State, the court granted the order, and Otte was subsequently interviewed by the Criminal Division to determine his eligibility for PTI. (Db2)

The Criminal Division found, based on Otte’s personal history, that he was “clearly” a “victim of circumstances that were out of his control as a child / adolescent” and that the trauma of his youth, and his resulting psychiatric diagnoses, were ultimately the “caus[e] of [Otte’s] irrational and emotional responses to [his] current situations / legal problems.” (Db5) Because Otte’s behavior stemmed from his psychiatric diagnoses of “Bipolar Disorders, Depressive Type and Generalized Anxiety Disorder,” the Criminal Division found that there was “no doubt that Mr. Otte has the potential to be a productive member of society, with the appropriate interventions in place.” (Db5) However,

because Otte had pending criminal charges in New Jersey and out of state, the Criminal Division denied enrolment into PTI, citing his criminal matters as the sole basis for the denial. (Db5) The State then adopted the Criminal Division's recommendation, and denied Otte's entry into PTI. (Db5)

A few weeks later, Otte moved to be reconsidered for entry into PTI on the grounds that he had resolved the criminal matters which had been the basis for his denial. (Db6) The trial court granted the motion, and found that that Otte had good cause to re-apply for PTI, and to do so out of time. (Db6) This time around, now that Otte's outstanding criminal matters had been resolved, the Criminal Division approved his entry into PTI and recommended he be enrolled. (Db6-7) The State, however, again objected to Otte's enrollment into PTI, relying upon the bases it had previously set forth in its initial denial of Otte's PTI entry. (Db6-7) Specifically, while the State had provided a cursory explanation as to the substantive basis for Otte's denial – which analyzed only three of the seventeen statutory factors for PTI entry under N.J.S.A. 2C:43-12(e) – the primary basis for the State's denial of Otte's entry was procedural. Namely, the State reasoned that Otte was procedurally ineligible for PTI because he had already pled guilty. (Db5) The trial court then adopted the State's argument, affirming the State's PTI denial by relying exclusively upon the fact that Otte's plea agreement had not contemplated PTI. (Db8)

On appeal before the Appellate Division, Otte argued that the trial court had erred in concluding that Otte was procedurally barred from PTI enrolment because the rule governing the timing for PTI enrollment, Rule 3:28-2, explicitly permits defendants to apply outside of the standard timeframe so long as “good cause is shown” – a finding which the trial court had twice made in support of Otte’s out-of-time applications. (Db15-18) Moreover, Otte argued that his eligibility for PTI entry was not undermined by the Appellate Division opinion in State v. Waters, which held that, at the time it was decided, the trial court’s admission of a defendant into PTI following a guilty plea was “inappropriate.” 439 N.J. Super. 215, 224-25 (App. Div. 2015). Crucially, as Otte argued in his Appellate Division brief (Db20-24), the decision in Waters predated the enactment of significant statutory changes to the PTI rules in August of 2025. P.L. 2015, c. 98 (Senate Bill No. 2559). As part of those changes, for certain criminal charges, defendants were now required to plead guilty in order to be admitted into PTI. (Db21) This new rule was the Legislature’s means of instrumentalizing the finding that “in order for PTI to be effective,” a “defendant must assume some responsibility for his conduct.” (Db21) (quoting Pressler, Current N.J. Court Rules, Comment to R. 3:28-5 (2025)).

Accordingly, the 2015 PTI amendments made clear that the structure and goals of PTI are entirely consistent with post-guilty plea applications for PTI

because such applications, like Otte's, include a guarantee that the candidate has accepted responsibility for their actions via their guilty plea, making them ideal candidates that are eager and willing to work hard towards their rehabilitation. (Db21-22) In rejecting Otte's argument as to the abrogation of Waters via the 2015 amendments, the Appellate Division applied a statutory interpretation that omits any discussion of the legislative endorsement of post-guilty plea PTI applications discussed above. (Dpa7-12) As noted, the Legislature's 2015 amendments were intended, in part, to facilitate entry into PTI for defendants who have taken responsibility for their actions. (Db21-22) The outright exclusion of defendants who have already pled guilty from PTI eligibility undermines this Legislative purpose by prohibiting a population of people who have definitively and explicitly taken responsibility for their actions.

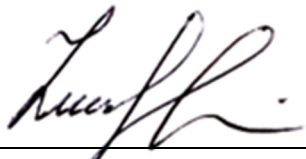
The Appellate Division opinion thus calls out for correction from this Court because it does just that: it improperly excludes criminal defendants, like Otte, who would "no doubt....be a productive member of society" if only they had access to the rehabilitative opportunities of PTI that would help secure their success. (Db5) The disqualification of such defendants from the resources they need in order to help themselves and prevent further criminal behavior is not only based upon an incomplete statutory interpretation of the rules governing PTI, but is also a clear injustice which improperly prioritizes mechanic and

reflexive proceduralism at the cost of fairness and public safety. See R. 1:1-2(a) (“[R]ules...shall be construed to secure a just determination...[and] [u]nless otherwise stated, any rule may be relaxed or dispensed with by the court...if adherence to it would result in an injustice.”) (emphasis added).

Accordingly, Otte urges that this matter warrants certification in the furtherance of the interest of justice. R. 2:12-4. In support of his request, Otte relies on the arguments raised in his appellate division briefing, and respectfully reserves the right to supplement his arguments, by appropriate motion, if certification is granted.

Respectfully submitted,

JENNIFER SELLITTI  
Public Defender  
Attorney for Defendant-Appellant


BY:  \_\_\_\_\_

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NJ Office of the Public Defender  
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Dated: February 9, 2026

**CERTIFICATION**

I hereby certify that the foregoing petition for certification presents a substantial issue of law and is filed in good faith and not for purposes of delay.

BY:   
\_\_\_\_\_ Lucas B. Slevin