

# Exhibit C

State v. Crosley Green, 8/31/2009, Re-Sentencing

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-1989-CF-004942-AXXX-XX

CROSLEY GREEN,

Appellee/Defendant,

vs.

STATE OF FLORIDA,

Appellant/Plaintiff.

**ORIGINAL REPRINT**

TRANSCRIPT OF RE-SENTENCING HEARING

DATE TAKEN: August 31st, 2009

TIME: 1:30 p.m. - 5:00 p.m.

PLACE: Moore Justice Center  
2825 Judge Fran Jamieson Way  
Viera, Florida 32940

BEFORE: Bruce Jacobus, Circuit Court Judge

This cause came on to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

Bobbi Lynne McCoy-Joy

Florida Professional Reporter and Notary Public  
State of Florida at Large

Brevard Associated Court Services, Inc.,

14 Suntree Place, Suite 101

Melbourne, Florida 32940

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ALSO PRESENT:

\*\*\*\*\* N O N E \*\*\*\*\*

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1 THE COURT: Yes, sir.

2 MR. RHOAD: We would call Lieutenant Randolph  
3 Sally to the stand.

4 THE COURT: Okay.

5 COURT CLERK: Raise your right hand, please.

6 W H E R E U P O N,

7 RANDOLF SALLY

8 a Witness, herein, acknowledged having been duly sworn,  
9 and testified upon his oath, as follows:

10 THE WITNESS: I do.

11 THE COURT: Why don't you have a seat right over  
12 here.

13 (Brief pause in the proceedings.)

14 THE COURT: Go ahead.

15 DIRECT EXAMINATION

16 BY MR. RHOAD:

17 Q. Lieutenant Sally, would you please state your  
18 name for the record?

19 A. Randolph Sally, Senior.

20 Q. And sir, are you currently employed?

21 A. Yes.

22 Q. Where are you employed?

23 A. Newman Correctional Institution.

24 Q. What position do you hold?

25 A. Lieutenant of shift.

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1 Q. And how long have you been a correctional  
2 officer?

3 A. Twenty-three years.

4 Q. Sir, could you please describe for the Court a  
5 little bit about your educational background and  
6 training?

7 A. As far as the Department of Corrections is  
8 concerned?

9 Q. Actually, why don't we start with high school,  
10 when you graduated from high school.

11 A. Once I graduated high school I went into the  
12 military, army, did four years in the 82nd Airborne.  
13 After being discharged from the military I did some odd  
14 jobs from '84 to early '86, before I got hired on with  
15 the Department of Corrections.

16 Q. So, you have been there since 1986?

17 A. Correct.

18 Q. Could you describe just very generally the  
19 training that you had to undergo to become a  
20 correctional officer?

21 A. When I was initially hired there was 320 hours  
22 that was mandatory schooling that they were giving,  
23 considerably more now.

24 Q. And just generally, what type of training was  
25 it?

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1           A.    A portion of it was law, of course inmate  
2 welfare, care, custody and control, which we are bound  
3 by and that's what we do.

4           Q.    And could you describe for me what the  
5 promotional chain is for correctional officers? I mean,  
6 when you graduated from correctional officer training  
7 what rank did you hold?

8           A.    A ground floor would be correctional officer  
9 and of course from there it goes into sergeant and then  
10 of course now I'm a lieutenant. But, to be promoted you  
11 have to sit in front of a panel and are asked questions  
12 or sometime you write essays or disciplinary reports to  
13 find out how your writing is.

14           When I became a lieutenant you're in front of a  
15 higher court, which would be our assistant warden, which  
16 they will quiz the panel on the questions, which are  
17 unknown, from Tallahassee.

18           Q.    Thank you, sir, So, going back, when you  
19 actually graduated from correctional officer training  
20 where were you first assigned?

21           A.    Let's see, of course with the UCI, Union  
22 Corrections Institute. I actually worked at that time  
23 the west unit in the flat top, which is no longer there.

24           Q.    And when you were assigned to Union  
25 Correctional Institution, back in 1986, is that where

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1 you remained ever since?

2 A. Yes.

3 Q. So, in addition to being a correctional  
4 officer for 23 years you've been at Union?

5 A. Correct.

6 Q. How much interaction do you have with inmates?

7 A. Um, considerable, I would say. Not as much as  
8 I used to because I'm more of a supervisor for staff as  
9 well. But, I do have interaction daily with inmates.

10 Q. Do you know Mr. Green?

11 A. Yes.

12 Q. And how is it that you know him?

13 A. When I was promoted to sergeant in '93 I do  
14 believe Green was transferred from Florida state prison  
15 to to U C.I. He might have been there before I got  
16 there. But, I got there in '93. But, I do know I  
17 worked as a floor sergeant in death row for probably  
18 five years that I can remember and I do know him from  
19 that stint, as well as the time I was administrative  
20 sergeant down there. I've known him probably 15 plus  
21 years.

22 Q. Let me ask you this, sir. What observations  
23 can you share with the Court about Mr. Green's conduct  
24 in the department, while he was an inmate at Union?

25 A. I personally never had no problems with Green.

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1 Q. In the 15 years that you have known him have  
2 you ever known him to be a disciplinary problem?

3 A. Not that I can recall; no.

4 Q. How would you compare his conduct relative to  
5 the other inmates?

6 A. Being that we have such a variety of inmates,  
7 quiet well, I would put it.

8 Q. Would you consider Mr. Green to be a model  
9 inmate?

10 A. Compared to some of the troublesome inmates,  
11 yes.

12 Q. Based on the exposure and interaction you have  
13 had with Mr. Green since the 15 or 16 years that you  
14 have known him have you formed an opinion as to whether  
15 or not Mr. Green would pose a risk if he were to be  
16 moved into a general population?

17 A. Not in my opinion no, I believe he would be  
18 able to function well in an open population.

19 Q. For that matter, sir, if Mr. Green were  
20 eligible for parole at some point in the future have you  
21 formed an opinion about whether we would pose a risk to  
22 society?

23 A. Um, personal opinion, I don't see it. But  
24 that doesn't mean it is not possible. My personal  
25 opinion is no, I don't see it.

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1 Q. Based on your own observations and  
2 interactions with Mr. Green in the 15 or 16 years that  
3 you have known him have you formed an opinion about his  
4 character and truthfulness?

5 A. That's an area that sometimes is difficult to  
6 arrive at. But, however the question is yes, I have  
7 formed an opinion.

8 Q. And do you consider him to be a truthful  
9 person, in terms --

10 A. Yes, I believe him to be truthful. I don't  
11 have any problems with him. Anything I ever asked of  
12 Green it was always fact based, as far as I could tell.

13 Q. And sir, my last question for you, I think is  
14 my last question, you're here today testifying on behalf  
15 of Mr. Green and I understand obviously that it is  
16 subject to a subpoena that you received to call you to  
17 come down here to do so. My question for you, sir, is  
18 in your 23 year career as a correctional officer have  
19 you ever testified on behalf of any other inmate, other  
20 than Mr. Green?

21 A. No.

22 MR. RHOAD: Thank you. The State may have  
23 some questions for you. But, before we get there,  
24 Your Honor I have -- it has not yet marked for  
25 identification, but I do have three affidavits that



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1 have been signed by three correctional officers at  
2 Union Correctional Institution, one being  
3 Mr. Watson, who has been there for roughly 17 years  
4 and has known Mr. Green for most of that time, one  
5 from Sergeant Lee, who has been there for 18 years  
6 and one from Lieutenant Sally.

7 All of these affidavits are very similar.  
8 Lieutenant Watson and Sergeant Lee couldn't be here  
9 today, but they all explain the extensive contact  
10 that these correctional officers have had with  
11 Mr. Green, their opinion that Mr. Green is a model  
12 inmate and has been a model inmate since they known  
13 him, that he's never been a disciplinary problem,  
14 that they believe that he is a truthful person and  
15 that they believe that if Mr. Green were to be  
16 released on parole some day that he would not pose  
17 any risk. And in fact, that they believe that he  
18 would be an ideal candidate for parole.

19 And all three of these individuals  
20 respectfully request that the Court take their  
21 sworn testimony and their affidavits into  
22 consideration at this hearing today. So, if I  
23 could, I would like to ask that these be marked as  
24 Defense Exhibits.

25 THE COURT: Any objection?



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1 MR. HOLMES: State has no objection. Hearsay  
2 is admissible.

3 THE COURT: Okay, thanks. So, you can bring  
4 them up here and the Clerk will mark them and  
5 receive them in evidence.

6 MR. RHOAD: And just so the record is clear,  
7 in order they are from Willy B. Watson, Jerome Lee  
8 and Randolph Sally. If they could be marked in  
9 order.

10 THE COURT: Okay, very good.

11 (Defense Exhibit Number 1 - 3 were marked for  
12 identification and recieved into evidence.)

13 MR. RHOAD: And sir, I have no further  
14 questions for you at this time. The State may have  
15 some questions for you and I may come back up.

16 THE COURT: Mr. Holmes, cross examination?

17 MR. HOLMES: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. HOLMES:

20 Q. Now, death row at Union that's a pretty  
21 regulated environment for the inmates, isn't it?

22 A. Yes, sir.

23 Q. They're not free to come and go for themselves?

24 A. No, sir.

25 Q. As a matter of fact, aren't they in individual

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1 cells?

2 A. Yes, sir.

3 Q. And if they do not follow the rules,  
4 disciplinary rules, if they do act up, aren't there  
5 different punishments that are available to be exercised  
6 against them by the Department of Corrections?

7 A. Yes, sir.

8 Q. And the inmates that come into the system, if  
9 they don't know those rules already, they learn them  
10 pretty quick, don't they?

11 A. Yes, sir.

12 Q. And you have some inmates who behave -- work  
13 the system to the best of their advantage, do they not?

14 A. Absolutely.

15 Q. And they're many others, other than Mr. Green,  
16 that work the system everyday and make them work to the  
17 best of their advantage?

18 A. Yes, sir.

19 Q. And there are others that are just trouble  
20 from day one, aren't they?

21 A. Yes, sir.

22 Q. And I'm sure that you know and could list off  
23 for the rest of the afternoon some of those that you  
24 have dealt with?

25 A. Yes, sir.

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1 Q. So, at least in the prison setting Mr. Green  
2 has abided basically by the rules and made a life for  
3 himself on death row as best as it can be for his  
4 particular circumstances?

5 A. Yes.

6 Q. And that's not uncommon for a number of the  
7 death row inmates, is it?

8 A. No, sir.

9 Q. Now, you did not know Mr. Green prior to him  
10 coming to prison, did you?

11 A. No, sir, I did not.

12 Q. And you don't know what his reputation for  
13 truthfulness in the community with Brevard County was,  
14 do you?

15 A. That's correct.

16 Q. And you didn't know him when he was selling  
17 drugs in Brevard County in the seventies and eighties,  
18 did you?

19 A. No, sir, I did not.

20 Q. And you didn't know him when he was running  
21 from the police, fleeing and eluding, did you?

22 A. No, sir.

23 Q. And you didn't know him when he was driving  
24 vehicles recklessly, did you?

25 A. No, sir.

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1 Q. And you didn't know him when he was dealing in  
2 stolen property, did you?

3 A. No, sir.

4 Q. And you didn't know him when he was doing an  
5 armed robbery in New York, did you?

6 A. No, sir.

7 Q. So, your knowledge of Mr. Green is -- began  
8 some time in the nineties and it is a very confined  
9 setting that he is in?

10 A. Yes, sir.

11 Q. So, all of your answers that you gave the  
12 Court here today are within those parameters; correct?

13 A. Yes, sir.

14 Q. So, you really don't know what is going to  
15 happen if he was released back to the Brevard County  
16 community, do you?

17 A. Correct.

18 MR. HOLMES: Thank you. No further questions.

19 THE COURT: Any redirect?

20 MR. RHOAD: Just briefly, Your Honor.

21 THE COURT: Okay.

22 MR. RHOAD: And Your Honor, we would note that  
23 Mr. Holmes did read off a list of offenses. The  
24 record is clear, obviously part of what -- up in  
25 New York, conviction for instance, means or what it

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1 doesn't mean, it is very clear on the record. So,  
2 we'll just offer that to the Court as both an  
3 objection, but really just for the Court to  
4 recognize that in considering those things.

5 MR. HOLMES: Your Honor, the State would ask  
6 the Court to rely on the Presentence Investigation  
7 that --

8 THE COURT: There's a score sheet --

9 MR. HOLMES: -- for his character --

10 (Cross talk; unintelligible.)

11 MR. HOLMES: -- and in addition to that they  
12 had put his character into issue for this Court.  
13 So, any prior brush with the law is now relevant  
14 for the Court to consider in what his future  
15 behavior may be.

16 MR. RHOAD: And Your Honor, we don't dispute  
17 that at all. We just, in terms of any precision,  
18 in terms of what the nature of these offenses are,  
19 the record we believe is clear.

20 THE COURT: You know, I always tell juries  
21 questions are not evidence. It's the answer and  
22 really what he was saying is he didn't know him  
23 before he went to prison. That was really the  
24 answer. All the rest of it really wasn't evidence.

25 MR. RHOAD: Yes, sir.

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1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY MR. RHOAD:

4 Q. Lieutenant Sally, obviously Mr. Holmes asked  
5 you some questions about Mr. Green, you know, 20 years  
6 ago. My questions are simply for you and what you have  
7 observed. And just to be clear, you've only known  
8 Mr. Green since 1993; correct?

9 A. Correct.

10 Q. So, that has been roughly 16 years. And I'm  
11 only asking you based on what you have observed and what  
12 your opinion is based on Mr. Green's conduct during that  
13 last 16 years. And simply, sir, in that 16 years have  
14 you ever known Mr. Green to be a disciplinary problem?

15 A. None that I can recall.

16 MR. RHOAD: Thank you.

17 THE COURT: Thank you, Lietenant You may step  
18 down.

19 (The Witness was excused.)

20 THE COURT: Who do we have now?

21 MR. HARRISON: Your Honor, I would like to  
22 direct the Court's attention to a decision, Brown  
23 versus State, the current decision by Justice  
24 Allenbrand (phonetic), which is one of the few  
25 cases that we have been able to identify that gives