

United States District Court		District:	
Name (under which you were convicted):		Docket or Case No.:	
Place of Confinement :		Prisoner No.:	
Petitioner (include the name under which you were convicted)		Respondent (authorized person having custody of petitioner)	
v.			
The Attorney General of the State of			

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

2. (a) Date of the judgment of conviction (if you know):

3. Length of sentence:

4. In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

6. (a) What was your plea? (Check one)

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court:

(b) Docket or case number (if you know):

(c) Result:

(d) Date of result (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised:

(g) Did you seek further review by a higher state court? ☐ Yes ☐ No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

(5) Citation to the case (if you know):

(6) Grounds raised:

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes

☐ No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result:

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground One, explain why:

(Ground 1 Facts Continued) (See Flynn, Sr. Recording of Hallock Transcript, attached as Ex. 41). This taped statement was not disclosed to the defense, with Mr. Green only learning about it years after his conviction.

During the course of the investigation, first responders and experienced officers Deputy Mark Rixey and Sergeant Diane Clarke told many BCSO employees, including lead detectives Thom Fair and Scott Nyquist, and lead Assistant State Attorney Christopher White, that the evidence pointed to Hallock as Flynn's killer (Rixey Aff., attached as Ex. 21; Clarke Aff., attached as Ex. 25). Handwritten notes from White's August 1989 interview of Rixey and Clarke were obtained through the post-conviction discovery process. They were not disclosed to Mr. Green's defense at trial (Motion to Vacate Judgment of Conviction and Sentence (As Amended), attached as Ex. 39-A, at 52-53). The notes contain the following statement: "Mark & Diane suspect girl did it, she changed her story couple times. . . . She 1st said she tied his hands behind his back." White wrote that Rixey and Clarke were suspicious because Hallock never asked about Flynn's condition, would not go to the scene, and drove all the way to the trailer park to ask for help. There were also no footprints or shell casings at the orange grove (White's Notes, attached as Ex. 28). The 2010 sworn affidavits of Clarke and Rixey further detail their suspicions (*See* Exs. 21 and 25).

The gun found at the scene was Flynn's, and there was no physical evidence linking Mr. Green to the crime (T. 1015:16-22). No fingerprints of Mr. Green's were found (T. 1120:12-1121:2, 1123:16-18; 2000 FDLE Latent Print Report, attached as Ex. 30; Sgt. Cockriel Report, attached as Ex. 31). The only evidence at trial that the State connected to Mr. Green were Win Streak shoe prints found at Holder Park, where many people had

attended a baseball game the evening of April 3 (T. 482:17-23; 1989 FDLE Latent Print Report, attached as Ex. 32; Hampton Dep., attached as Ex. 78, at 6:21-7:9). No proof was presented at trial that these were Mr. Green's shoe prints, yet the prosecutors told the jury that they were (T. 1363:2-18, 1367:13-17, 1890:21-1891:7).

At trial, three witnesses – Sheila Green and her fiancé Lonnie Hillery, and Jerome Murray – testified that Crosley Green confessed to them and that they had not received anything in exchange for this testimony (T. 856:10-858:9; 860-61, 873:18-23, 879-80, 1231:6-1232:3; 1237:4-8). All three have since recanted their testimony, beginning with Sheila Green in 1992, citing police and prosecutorial misconduct. Sheila Green and Hillery, who is no longer involved with Ms. Green, explained under oath that White threatened Ms. Green with a 20-years-to-life sentence on her pending federal drug charges, Hillery with the re-trying of the drug charges of which he had recently been acquitted, and both with losing custody of their children (Hillery Statement, attached as Ex. 44, at 19:1-6; Hillery Affidavit, attached as Ex. 47; Sheila Green Affidavit, attached as Ex. 48; 2003 Ev. Hr'g Tr. Vol. 1, attached as Ex. 35-A, at 18:19-19:4, 63:16-19, 64:18-19, 79:8-20). Although Jerome Murray had no information implicating Mr. Green, a BCSO investigator approached him saying that he knew Murray knew Mr. Green had killed someone, and Murray felt compelled to cooperate because he was facing a parole violation charge (Videotaped Murray Statement, attached as Ex. 52, at 5:21-9:8; T. 1237:9-17).

Tim Curtis, a prosecution witness and friend of Flynn's, reported to a defense investigator a chance encounter with one of the jurors. After Curtis testified but before the defense put on its case, a juror looked at Curtis in the courthouse parking lot and then made a

slashing gesture by moving his finger horizontally across his throat (T. 1546-55, 1626:1-1627:5). This indicated to Curtis that “Green was dead” (Curtis Affidavit, attached as Ex. 54, at 3). When Mr. Green’s trial counsel, John Roberson Parker, moved for a mistrial, Curtis testified that he had originally thought the man he saw was a juror but had changed his mind (T. 1634:1-7). Curtis recanted this testimony years later, saying that he knew the man he saw was a juror. He lied at trial because two BCSO detectives took him out for a meal and explained to him that telling the truth would result in a mistrial, letting Mr. Green go free (Ex. 54 at 3; Curtis Statement, attached as Ex. 55, at 13-14).

A fourth “confession” witness emerged ten years after trial and also later recanted. Laymen Layne “came forward” the same year that Hillery and Murray recanted, saying that he remembered Mr. Green telling him he had just shot someone (Oct. 2004 Ev. Hr’g Tr., attached as Ex. 56-B, at 153:4-5). Layne recanted this testimony in 2009, explaining that he had lied because he had been offered assistance by the State in a civil custody dispute and because he thought the prison sentence he was serving would be reduced (Layne Affidavit, attached as Ex. 58; Aug. 2011 Ev. Hr’g Tr., attached as Ex. 128, at 22:1-23:2, 30:8-16).

Finally, the State claimed that post-conviction mitochondrial DNA testing proved two hairs found in Flynn’s truck were a “match” to Mr. Green, even though its own expert testified that Mr. Green could merely not be excluded as a source of the hairs, along with all of his maternal relatives and an unrelated portion of the population (June 2004 Ev. Hr’g Tr. Vol. I, attached as Ex. 63-B, at 101:15-23, 146:12-20; June 2004 Ev. Hr’g Tr. Vol. II, attached as Ex. 64, at 235).

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

(Ground 2 Facts Continued) Deputy Rixey did not see any lights on at Holder Park as he patrolled it the night of April 3 (T. 546:22-548:23). He described the orange grove as “pitch black,” to which Sergeant Clarke agreed, and Hallock said it was “completely dark” (T. 521:21-522:2; Ex. 13 at 19; Clarke Dep., attached as Ex. 22, at 7:9-11). Hallock had no more than approximately 75 seconds total in which to view the assailant (Suppression Hr’g Tr., attached as Ex. 18-A, at 46:18-48:21, 52:5-15; Hallock Dep., attached as Ex. 9, at 135:12-136-23). She told police she was “really scared” and that she “really didn’t even get a good look at [the ‘black guy’]” (Ex. 13 at 4, 12). She described his hair as an afro, long, with ringlets hanging to over his ears, and greasy from styling gel (Ex. 9 at 73:24-75:24, 137:6-13; Ex. 18-A at 58:18-24, 63:16-21; T. 742:12-743:20). Mr. Green’s hair has always been closely cropped, as it is in his lineup photo (T. 1278:18-1279:3, 1289:25-1290:12; O’Conner Green Aff. I, attached as Ex. 75; Photographic Lineup, attached as Ex. 76). She said the “black guy” was wearing a dark t-shirt or possibly no shirt, a green jacket, and heavy boots; even after the police suggested that he might have worn tennis shoes (prints used in the dog track), Hallock said she still thought he wore work boots (Ex. 13 at 11, 24; Ex. 9 at 66:1-15, 98:12-22).

Before Hallock viewed the lineup, the BCSO detectives told her that their suspect was in the array (T. 755:23-756:7). Green’s photo, which is much darker than the other photographs, was presented front and center (T. 785:23-786:15; *See* Ex. 76). Initially tentative, Hallock eventually said she was “sure,” after which the detectives told her she was correct in identifying the suspect (Ex. 18-A 64:15-65:4; T. 624:3-13, 1512:19-1513:5).

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you :
have used to exhaust your state remedies on Ground Two

GROUND THREE:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(Ground 3 Facts Continued) That the sand dune where the track originated was a well-traveled area made it virtually impossible to track a person if there was no scent object (Ex. 72 at 437:1-14). Zar “followed” the footprints south on Glendale Road, over four surfaces – sand in the park, asphalt of the street, sidewalk pavement, and grass – though Zar was not trained in tracking on different surfaces, known as variable surface tracking (Ex. 72 at 417:5-419:10; Ex. 84). From Glendale Road, Zar turned right (west) on Briarcliff Way, down to the intersection at Belvedere, where he “stopped tracking” at 3658 Briarcliff Way (Arieux Report, attached as Ex. 86; Ex. 84). This was the residence of Mr. Green’s sister, Celestine Peterkin, with whom Mr. Green stayed occasionally (Peterkin Dep., attached as Ex. 88, at 5:23-24, 10:3-10).

Mr. Green would not have taken this route to or from Holder Park because there was a shortcut, a path in the trees, behind Peterkin’s home that leads straight to the baseball fields (Smith Statement, attached as Ex. 79, at 6; *See* Map of Holder Park Area, attached as Ex. 89). Zar’s route is longer and takes more time, and while there is no documented account of Mr. Green walking that route, there is a documented account of his using the pathway (Ex. 79 at 6). Mr. Green’s only pair of shoes, Reeboks, do not match the Win Streak prints on which Zar began the track (Ex. 32). Yet the State insisted that the shoe prints were Mr. Green’s (T. 1890:21-1891:7). Zar could not pick up the scent of anyone at all at the orange grove (Ex. 83 at 21-25). Finally, the BCSO essentially testified at trial that Zar had never made a mistake in test tracking, but post-conviction discovery revealed that Zar had made mistakes and received unsatisfactory ratings (T. 1388:23-25, 1390-92, 1452, 1477; Ex. 71 at 261:19-262:1; *E.g.*, Working Dog Training and Utilization Records, attached as Exs. 91-A and 91-B).

(b) If you did not exhaust your state remedies on Ground Three, explain why?

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) If you did not exhaust your state remedies on Ground Four, explain why:

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

(Ground 4 Facts Continued) Aff., attached as Ex. 100; Hepburn Aff., attached as Ex. 101).

Parker did not demonstrate that Kim Hallock's story was incredible and inconsistent. For example, no gunshot residue was found on Flynn or his clothing despite Hallock's testimony that he fired his revolver with his hands tied behind his back at the orange grove (Radcliffe Report, attached as Ex. 110; Autopsy Report, attached as Ex. 111; T. 616, 751-752), and there is no evidence that a third person was at the orange grove – no fingerprints, footprints, blood besides Flynn's, or a scent for the dog to track (Ex. 83 at 21-25; Ex. 86; T. 1499, 1632:11-1633:11).

Parker did not ask what conclusions Rixey, Clarke, and the first officer to speak with Hallock, Wade Walker III, had drawn regarding what occurred when they responded to the crime (*See* Ex. 22; Rixey Dep., attached as Ex. 23; Walker Dep., attached as Ex. 24). He thus did not learn that Rixey and Clarke agreed that the evidence pointed to Hallock as the murderer (Exs. 21, 25), or that Hallock told Deputy Walker two key facts immediately after the crime that she subsequently changed in all of her later statements and testimony (FDLE Report of Walker Interview, attached as Ex. 27; Ex. 107). Parker did not interview Sheila Green or Hillery at all, though he knew they were potential witnesses for the prosecution over a month before trial (Supplemental Discovery, attached as Ex. 118). Among other details, Parker did not obtain a certified copy of Murray's criminal record and thus was not able to impeach him with it at trial (Ex. 56-B at 90:14-91:4). Further, Parker never hired a ballistics or dog tracking expert to explain the problems with the relevant evidence. He did not discover or present evidence that Zar had turned the wrong way and "mis-scented" in earlier tracks (Ex. 56-B at 83:9-84:14; *E.g.* Exs. 91-A, 91-B). Neither did Parker request a change of venue due to pre-trial publicity or challenge the seating of a juror whose niece had been murdered three years earlier (Ex. 36-A at 235:25-236:6, 239:13-16; Ex. 36-B at 346:19-347:7).

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

GROUND FIVE: Mr. Green was denied his constitutional rights under the Fifth, Sixth, and Fourteenth Amendments by the State's repeated improper references to Mr. Green's race and making knowingly false representations of the facts and the evidence to the jury and to the court.

(a) Supporting facts:

During Mr. Green's trial, the prosecution made at least 48 references to Mr. Green's race. (*See, e.g.*, T. 398:11; 399:7; T. 415:3-5; 424:4-5, 17; 444:1-3; 445:15, 19, 22; 446:5, 22; 579:4, 8; 577:4, 23; 578:24; 583: 7, 11, 14; 587:2, 9; 589:1, 14, 22; 590:19; 592:11, 12; 595:9; 596:6-7; 597:15-16; 598:6; 599:5; 620:9; 625:12; 767:25; 768:9, 17; 869:4; 925:6; 1035:23-24; 1246:7; 1455:8; 1595:21; 1881:13-14). In addition, the prosecution asserted that if Flynn had not performed the heroic dive from the car while shooting a double-action revolver with his hands tied behind his back when he did (as Hallock alleged), Mr. Green, a black man, would have sexually assaulted Hallock, a white woman (T. 1899:1-4). One juror specifically stated that racial issues were present during this trial: "because it has to do with the blacks and whites and, see that many years ago it was kind of touchy and . . . to have an all-white jury, it's not fair" (Bloss 48 Hours Outtakes, attached as Ex. 69, at 2-3).

Further, the State argued to the jury that the prints made by tennis shoes in the vicinity of the crime scene were, in fact, Mr. Green's. The State made this argument even though Hallock described the alleged attacker as wearing "work boots," not tennis shoes (T. 621:13-15). The prints were made by Win Streak sneakers (T. 1656:20-23), but the only pair of shoes Mr. Green owned, the Reeboks he was wearing when he was arrested, do not match the shoeprints at Holder Park (Brevard County Jail Receipt, attached as Ex. 90). There was no evidence that Mr. Green owned shoes that would have made that print, or that they were

Mr. Green's shoe size. Even the trial judge acknowledged that the State couldn't prove the tracks were Mr. Green's and noted that the State didn't have tennis shoes to match the prints (T. 1363:2-1364:19, 1367:13-17). Yet the State still told the jury they were Mr. Green's in closing:

Look through this evidence. Look at those footprints. I'll tell you what we do know. Do you know where these came from (indicating)? These came off his feet (T. 1890:21-1891:1).

The prosecutors misstated numerous other facts as well, including telling the jury that Hillery testified that Mr. Green had been sweaty when he confessed to him, implying that Mr. Green had run from the orange grove (T. 1837:23-1838:4). Hillery never testified to this.

(b) If you did not exhaust your state remedies on Ground Five, explain why: Not applicable.

(c) Direct appeal of Ground Five:

(1) If you appealed from the judgment of conviction, did you raise the issue? Yes, in part.

(2) If you did not raise this issue in your direct appeal, explain why:

The issue of the State's repeated, improper references to Green's race was not raised on direct appeal, but to the extent this portion of the issue is procedurally defaulted, (1) there was cause for the default and Mr. Green was prejudiced by the default; and (2) Mr. Green's actual innocence overcomes any procedural default that may apply.

(d) Post-conviction proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes, in part. The issue of the State's repeated, improper references to Green's race was not raised in post-conviction proceedings, but to the extent this portion of the issue is procedurally defaulted, (1) there was cause for the default and Mr. Green was prejudiced by the default; and (2) Mr. Green's actual innocence overcomes any procedural default that may apply.

(2) If your answer to Question (d)(1) is “Yes,” state:

Type of motion or petition: A first Motion under Fla. R. Crim. P. 3.850 and 3.851, and a second Motion under Fla. R. Crim. P. 3.850.

Name and location of the court where the motion or petition was filed:

Both motions were filed in the Eighteenth Judicial Circuit Court, Brevard County, Florida.

Docket or case number: No. 05-1989-CF-004942-AXXX-XX

Date of the court’s decision: 11/25/2005 (First Rule 3.850/3.851 Motion) and 8/31/2011 (Second Rule 3.850 Motion).

Result: Claim denied (see Exhibits 1, 2-A, 2-B).

(3) Did you receive a hearing on your motion or petition? Yes, in part.

(4) Did you appeal from the denial of your motion or petition? Yes.

(5) If your answer to Question (d)(4) is “Yes,” did you raise this issue in the appeal? Yes.

(6) If your answer to Question (d)(4) is “Yes,” state:

Name and location of the court where the appeal was filed:

Appeal from the order on the First 3.850/3.851 Motion was filed in the Supreme Court of Florida, Tallahassee, Florida. Appeal from the order on the Second 3.850 Motion was filed in the Florida Fifth District Court of Appeal, Daytona Beach, Florida.

Docket or case number: Nos. SC05-2265, SC06-1533 (First Rule 3.850/3.851 Motion) and No. 5D11-3009 (Second Rule 3.850 Motion).

Date of the court’s decision: 1/31/2008 (First Rule 3.850/3.851 Motion) and 2/5/2013 (Second Rule 3.850 Motion).

Result: Affirmed claim denial (see Exhibits 3, 4).

(7) If your answer to Question (d)(4) or Question (d)(5) is “No,” explain why you did not raise this issue: Not applicable.

(e) Other remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: None.

GROUND SIX: Mr. Green was denied his constitutional due-process rights under the Fifth, Sixth, and Fourteenth Amendments because the jury prejudged him guilty based on their exposure to external publicity.

(a) Supporting facts:

Substantial publicity prior to and during trial identified Mr. Green as the lone suspect in Flynn's death and was considered by the all-white jury before and during their deliberations. Juror Bloss told CBS that Mr. Green's conviction bothered her in part because the jury was all white (Ex. 69 at 2).

Among the facts contained in the pre-trial coverage was that Mr. Green had been incarcerated until shortly before Flynn's death (*See Mims Man Charged in Slaying*, attached as Ex. 121; *Mims Slaying Suspect Just Freed From Prison*, attached as Ex. 122). Mr. Green's mug shot was featured in many of the articles (Ex. 122; *Judge Denies Bond for Mims Man Held but Not Indicted in Slaying, Kidnapping*, attached as Ex. 123; *Jury Indicts Mims Man in Slaying*, attached as Ex. 124). This and other pre-trial media described Mr. Green as the suspect in Flynn's death and described Hallock as a victim (Exs. 122, 123, 124). During voir dire, various jurors described seeing coverage of the case in the press (T. 63:9-66:25, 69, 73:15-74:21, 223:1-17, 227:25-228:2). According to Juror Bloss, many of the jurors had seen pretrial coverage of the case and were aware of Mr. Green's prior arrests for unrelated crimes. Bloss asserted that all of the jurors determined that Mr. Green was guilty before the trial started (Ex. 69 at 4-5).

(b) If you did not exhaust your state remedies on Ground Six, explain why: Not applicable.

(c) Direct appeal of Ground Six:

(1) If you appealed from the judgment of conviction, did you raise the issue? No.

(2) If you did not raise this issue in your direct appeal, explain why:

This was a collateral issue properly raised in post-conviction proceedings.

(d) Post-conviction proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes.

(2) If your answer to Question (d)(1) is “Yes,” state:

Type of motion or petition: A Motion under Fla. R. Crim. P. 3.850/3.851.

Name and location of the court where the motion or petition was filed:

The Eighteenth Judicial Circuit Court, Brevard County, Florida.

Docket or case number: No. 05-1989-CF-004942-AXXX-XX

Date of the court’s decision: 11/22/2005

Result: Claim denied (see Exhibit 1).

(3) Did you receive a hearing on your motion or petition? Yes.

(4) Did you appeal from the denial of your motion or petition? Yes.

(5) If your answer to Question (d)(4) is “Yes,” did you raise this issue in the appeal? Yes.

(6) If your answer to Question (d)(4) is “Yes,” state:

Name and location of the court where the appeal was filed:

The Supreme Court of Florida, Tallahassee, Florida.

Docket or case number: Nos. SC05-2265, SC06-1533.

Date of the court’s decision: 1/31/2008

Result: Affirmed claim denial (see Exhibit 3).

(7) If your answer to Question (d)(4) or Question (d)(5) is “No,” explain why you did not raise this issue: Not applicable.

(e) Other remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Six: None.

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:
- (a) At preliminary hearing:
 - (b) At arraignment and plea:
 - (c) At trial:
 - (d) At sentencing:
 - (e) On appeal:
 - (f) In any post-conviction proceeding:
 - (g) On appeal from any ruling against you in a post-conviction proceeding:
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☐ No
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:
 - (b) Give the date the other sentence was imposed:
 - (c) Give the length of the other sentence:
 - (d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No
18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

That the Court find that Mr. Green's constitutional rights were violated in accordance with the claims and grounds set forth in his Petition and this Memorandum in Support; That Mr. Green is entitled to an evidentiary hearing on any or all claims as appropriate; That Mr. Green's conviction on all counts be reversed and set aside;

or any other relief to which petitioner may be entitled.

s/ Mark E. Olive

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. The this Petition for Writ of Habeas Corpus will not be placed in the prison mailing system, but will be filed with this Court by and through my attorneys.

Executed (signed) on 3/19/14 (date).

Crosley Green
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 26, 2014 the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. I further certify that the foregoing document was mailed by first-class mail to Michael D. Crews, Secretary, Florida Department of Corrections, 501 South Calhoun Street, Tallahassee, Florida 32399, and to Donald Leavins, Warden, Hardee Correctional Institution, 6901 State Road 62, Bowling Green, Florida 33834.

s/ Mark E. Olive

Mark E. Olive

Fl. Bar No. 0578533

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Pro Hac Vice Admission Pending