

# **Exhibit 22**

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IN THE CIRCUIT COURT  
EIGHTEENTH JUDICIAL CIRCUIT  
BREVARD COUNTY, FLORIDA

CASE NO. 89-4942-CF-A

STATE OF FLORIDA,

Plaintiff,

versus

CROSLEY ALEXANDER GREEN,

Defendant.

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COPY

DEPOSITION OF DIANE CLARK

Deposition of DIANE CLARK taken before Laura Fuller, RPR, CSR, Deputy Official Court Reporter, held at the Office of the State Attorney, 700 Park Avenue, Titusville, Florida, on the 12th day of February, 1990, commencing at 3:25 pm.

EMILIE E. RICHARDS & ASSOCIATES  
OFFICIAL COURT REPORTERS  
BREVARD COUNTY COURTHOUSE  
506 SOUTH PALM AVENUE  
TITUSVILLE, FLORIDA 32780  
(407) 269-8152

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APPEARANCES:

CHRISTOPHER R. WHITE, ESQUIRE  
PHIL WILLIAMS, ESQUIRE  
Assistant State Attorney  
700 Park Avenue  
Titusville, FL 32780

Appearing for PLAINTIFF

JOHN R. PARKER, ESQUIRE  
805 S Washington Avenue  
Titusville, FL 32780

Appearing for DEFENDANT

LAURA FULLER, RPR, CSR  
Deputy Official Court Reporter

\* \* \* \* \*

P R O C E E D I N G S

1  
2 THEREUPON

3  
4 DIANE CLARK,

5 a witness herein, having been duly sworn, testified upon her  
6 oath as follows:

7  
8 DIRECT EXAMINATION

9 BY MR. PARKER:

10 Q Sergeant Clark, my name is Rob Parker. I represent  
11 Crosley Green, and I notice that you have got a document in  
12 front of you. Is this a narrative report that you have  
13 compiled?

14 A This is a copy of my supplement, yes.

15 Q Do you mind if I look at that?

16 A Certainly. Be my guest. It's kind of a hard copy  
17 to read.

18 Q I'm just wondering if I have got that. That's the  
19 only thing.

20 The deputy with you that morning was Rixey, right?

21 A Deputy Rixey, yes, sir.

22 Q Sergeant, you had occasion to get involved or  
23 called to assist in an investigation of a disturbance or  
24 homicide, something of the sort, on the early morning hours  
25 of April the 4th of 1989, is that correct?

A Yes, sir.

Q Now, as I understand it, you were the first

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1 uniformed officer on the scene?

2 A No, sir. The original deputy that was assigned to  
3 the call was Deputy Walker and Deputy Rixey. They were  
4 advised of a suspicious incident in the area of Hammock Road  
5 in the groves some place; that's essentially all they knew.

6 Q Okay. Let me interrupt, and please forgive me when  
7 I do this, but I will, from time to time, interrupt you.

8 A All right.

9 Q This suspicious incident, is this something you  
10 heard over the radio yourself?

11 A Yes, sir. I was supervising that night and I  
12 happened to be up -- well, I hear all the transmissions  
13 anyway, but I happened to be up in the Mims/Scottsmoor area  
14 when the call came in and I think Deputy Walker was advised  
15 to meet this Kim Hallock, who was the complainant, and I  
16 can't remember now if he was given an address to meet her at  
17 or just told to go to the orange groves, at which point I  
18 came on the radio and advised the comm center to have Deputy  
19 Walker go to the address that she was supposed to be at and  
20 meet her and I would go with Deputy Rixey to try to look for  
21 whatever we were looking for. It was supposed to have been  
22 somebody being shot out in the orange grove some place.

23 Q Okay.

24 A Deputy Rixey and I did respond to Hammock Road,  
25 but, quite honestly, we didn't know where on Hammock Road we

1 were supposed to go. We were trying to follow the directions  
2 that the comm center was trying to give us from what they  
3 were getting from her.

4 Q Right.

5 A And that wasn't totally successful. I told them  
6 just to stop and wait until Deputy Walker picked us up to  
7 show us where we had to go.

8 Q Did you then -- were you mobile during this time,  
9 or did you actually stop your vehicle?

10 A We were mobile. We were wandering, trying to look  
11 into the groves, but there is a lot of little short streets  
12 and little dirt roads, and we just kept mobile, kept putting  
13 spotlights into the woods to see if we could see anything,  
14 and just kept moving in an attempt to if we could see  
15 anything moving, stop, but we didn't have any indication to  
16 stop. We just kept driving until they came out.

17 Q When was the first time -- what time was it that  
18 morning that you were actually directed to the area where  
19 something may have occurred?

20 A Let me see, we drove to the initial area around one  
21 fourteen a.m. and by the time Walker could pick her up and  
22 get her out to us, it was probably, like, around one thirty,  
23 like, I will say approximately. He brought her out and we  
24 had him get ahead of us so he could direct us.

25 He took us north on Hammock Road to an area -- I

1 want to say there was a little area of some sort on the  
2 righthand side and just beyond that, there was a dirt road.  
3 We got down there and couldn't drive any further and at that  
4 point, we all stopped. Rixey's car was in the lead, Walker's  
5 was behind his, and mine was the third in the row.

6 Q Does this photograph mean anything to you  
7 (indicating)?

8 A Yeah. This is the road we came in on from.  
9 Hammock Road runs here. We took a right to here and right in  
10 here, we stopped because we couldn't go any further  
11 (indicating).

12 Q And you were being led down this road, is that  
13 correct?

14 A Yeah. We were directed in here by her. We  
15 stopped, I want to say, right about in here (indicating).  
16 It's pretty rough, so rather than damage one of the vehicles,  
17 we said we'd walk it.

18 Q Okay.

19 A So, that must be -- okay. That would be from over  
20 here (indicating),

21 Q Yes, ma'am.

22 A So, we walked down this way (indicating).

23 Q Okay.

24 A We got that far and she said that she couldn't --  
25 she thought it was down here, down this road, but she didn't

1 dare to go down there. So, I told Deputy Walker to go ahead  
2 and stay with her and Deputy Rixey and I would continue down  
3 to see what we could find.

4 And we proceeded down this road and I'm sure,  
5 because I remember this thing -- I about jumped out of my  
6 skin when this thing goes (indicating). It was a pumping  
7 station and it startled us.

8 Q Why did it startle you?

9 A Just it was so quiet out there and it was so dark,  
10 I just was, you know, we had a situation that we didn't know  
11 who was around. We were advised that somebody may have been  
12 shot up here and, you know, you are very sensitive about  
13 everything around you at that point in time.

14 Q Yes, ma'am. Once you got to this area, obviously  
15 you noticed the --

16 A We noticed that.

17 Q The pump?

18 A We noticed that we had water to the right of us.  
19 We continued walking. Obviously, this is where we found him.  
20 Well, there was a crook in the road right beyond him. We  
21 walked up on him at, I would say, around one forty-two a.m.

22 Q So, who was we, now?

23 A Deputy Rixey.

24 Q Okay.

25 A Deputy Walker is here in the car with her. I told



1 him to keep her in the car and just stay with her, not let  
2 her talk to anybody, you know, if we had support units  
3 arrive.

4 Q All right.

5 A And Deputy Rixey and I walked down this road. So,  
6 that is who the we is in we.

7 Q Who first saw Chip?

8 A Deputy Rixey saw him first. We had flashlights  
9 beaming the area and he said, my God, there is a body up  
10 here. We both ran up to him. He was lying face down, hands  
11 tied behind him and he was, at that time, still making some  
12 sounds, still moaning, get me out of here, get me out of  
13 here. We rolled him over and tried to talk to him, untied  
14 him, and --

15 Q Did you or Deputy Rixey attempt to have  
16 conversation with him?

17 A We both did.

18 Q Did you try to ask him questions?

19 A We tried to ask him what his name was. We tried to  
20 ask him anything and all he would say to us is, just get me  
21 out of here, just get me out of here. That's the only thing  
22 the man said. He never gave us his name. He never told us  
23 what happened. He never said anything except, get me out of  
24 here, oh my God, get me out of here.

25 Q Or, I want to go home?

1 A Yeah.

2 Q Words to that effect?

3 A Words to that effect. I want to go home, get me  
4 out of here, I'm hurt.

5 Q Did you scrutinize the way he was tied?

6 A We noticed he was -- had his hands tied behind him  
7 with a shoestring; he was lying face down.

8 Q Did you notice anything unusual about the way he  
9 was tied?

10 A Well, I felt it was unusual he was tied with a  
11 shoestring. As far as the knot or anything, I don't think we  
12 really paid that close attention. His hands were tied behind  
13 him.

14 Q Was he tied like this, or like this (indicating)?

15 A No. His hands were like this, in this manner  
16 (indicating).

17 Q Crisscrossed?

18 A I would say crisscrossed, yeah. They were tied  
19 together. They weren't, like, apart in any way, shape, or --

20 Q Were you the one that cut the string, cut him -- I  
21 mean, you know, untied him, if you will?

22 A I don't remember if it was myself or Deputy Rixey  
23 at this point; I really can't remember. Let's see if I have  
24 got it here. No, I don't have it marked. I don't recall  
25 which one of us took the string off.

1 Q Did he have a shirt on?

2 A Let me think a minute. I don't believe -- you  
3 know, I don't really remember. I'm trying to think what he  
4 had on. I'd have to look back through the reports. I  
5 honestly can't recall.

6 Q Deputy Rixey, in his report, suggests that he was  
7 breathing normally at the time you-all found him.

8 A At that point, yes, he had a -- we noticed a wound  
9 in the chest area, left chest area.

10 Q Did you notice that, you know, in retrospect  
11 without having to remove any clothing, or --

12 A We didn't remove any clothing from him. This is  
13 terrible, I want to say he didn't have a shirt on, but I'm  
14 not one hundred percent sure.

15 Q And I want to ask you one more time, and it's not a  
16 trick question, I just want to be absolutely sure, if you are  
17 absolutely sure, the manner in which he was tied behind his  
18 back.

19 A To the best of my knowledge, it was -- best of my  
20 recollection, his arms were behind him and crisscrossed in  
21 this manner (indicating). I don't recall if it was left over  
22 right or right over left, but I remember they were  
23 crisscrossed.

24 Q Did you find the firearm, the handgun?

25 A Deputy Rixey observed it first. It was -- well, if



1           A     I don't recall. Deputy Rixey picked it up and made  
2 it safe, and that's all I can remember about the gun.

3           Q     Did you have any other -- or attempt to have any  
4 other conversations with Mr. Flynn?

5           A     Again, we tried to find out who he was. I left  
6 Deputy Rixey and went back to pick up my patrol car to bring  
7 it up so we could show the ambulance where he was. I had  
8 already contacted the communications to notify, first, the  
9 ambulance.

10           When I responded back here, Rixey then said to me  
11 that he didn't think he was breathing. He, in fact, was not  
12 breathing. At that point, I performed mouth-to-mouth on him,  
13 got him breathing again, and he stopped breathing a second  
14 time. We did it a second time. At some point in that time  
15 frame, I also had them advise homicide because it was obvious  
16 at that time we had a very serious call going down.

17           He had a chest wound. I put a handkerchief over  
18 it. It wasn't what I should have done, but it was all I  
19 could do because all I had was a handkerchief. With that  
20 type of wound, you are supposed to put Saran wrap or  
21 something over it, but I did cover it to try to keep any air  
22 from flowing on it any further.

23           Q     Okay.

24           A     The ambulance personnel -- let's see, I notified  
25 them at the comm center at around quarter of two and they

1 arrived, like, one fifty-seven a.m.

2 Q Did you ever talk with Miss Hallock? Did she ever  
3 tell you exactly what time she felt like the shots were  
4 fired?

5 A I never laid eyes on the girl. I never saw her at  
6 all. I left her with Deputy Walker and she stayed with  
7 Walker until Agent Nyquist -- she was released to Agent  
8 Nyquist at that point on his arrival.

9 Q So, would it be a fair statement to say you didn't  
10 have an opportunity to question her before you arrived out in  
11 the groves, and you haven't questioned her since that time  
12 either?

13 A Yes, sir. I never met her.

14 Q Would you know her if you saw her today?

15 A No, sir.

16 Q How were you dressed that night? I know you had a  
17 uniform on, but did you have your long-sleeve jacket?

18 A No, sir. I had on a short-sleeve shirt and, you  
19 know, my regular uniform and I believe I had Wellington boots  
20 on, you know, pull-on boots, leather. I did not have any  
21 jacket on. I did not have a hat on, just my regular-duty  
22 uniform.

23 Q Do you know what the temperature was that night or  
24 those early morning hours?

25 A It was fairly mild because -- oh, yeah, it was in

1 April. It was probably -- I'd say probably in the seventies,  
2 low seventies. It was a mild night. I mean, it was quite a  
3 while ago, I don't recall exactly, but it was warm.

4 Q When you followed -- was it Deputy Walker with the  
5 girl in the car?

6 A Yes, sir.

7 Q When you followed them, where did you begin  
8 following that vehicle, right there on Hammock or --

9 A We had him -- we picked up with him on Jay Jay Road  
10 right at the corner of Jay Jay and Hammock.

11 Q Where is that in relation -- Hammock runs out this  
12 way (indicating)?

13 A Jay Jay runs this way (indicating), it goes from  
14 US 1 east to Hammock Road. We went right on that corner and  
15 then we traveled north on Hammock Road, and I believe some  
16 place on Hammock Road, near the road, there's some sort of an  
17 old shed or something there that made her remember where this  
18 street was.

19 Q Okay.

20 A And told us to turn. Now, Deputy Rixey was ahead  
21 of Deputy Walker and I was behind him, but we had constant  
22 radio contact on our channel and he turned and we left Walker  
23 here (indicating).

24 Q Did you note any -- and I know there's really no  
25 way to know this, but as you were following Agent Walker, or

1 Deputy Walker, did there appear to be any hesitation as to  
2 where you were going or where Deputy Walker was taking  
3 you-all? I mean, were you in radio contact with him?

4 A We were in radio contact.

5 Q Was anybody saying, well, we're not quite sure, we  
6 can't find it?

7 A Everything he told us seemed fairly concise. Now,  
8 what his conversation was with her, I have no idea. He only  
9 gave us directions once he had them clearly. I don't know  
10 what their conversation was; the mike wouldn't be open to  
11 hear the both of them.

12 Q It appears she came directly back to wherever it  
13 was this occurred. There didn't seem to be any hesitation  
14 about finding it again?

15 A To the best of my knowledge, no. But, again, I  
16 don't know what she said to him in the car.

17 Q Did you take anything into evidence out there at  
18 the scene?

19 A We had -- initially were going to, and I told  
20 Deputy Rixey, don't take anything, criminalistics will be  
21 coming out here. The only thing we did do, he had made the  
22 weapon safe, we put it in the plastic bag with the bullets  
23 and put it in the trunk of my car until Agent Demers arrived  
24 and turned it immediately over to her. Everything else we  
25 left right there.



1           There was, I believe, a denim jacket, a shirt, some  
2 clothing there on the ground, a couple of items, and I said,  
3 leave them, when Debbie gets here, she can take care of  
4 them.

5           Q     Anything unusual about the denim jacket? Did it  
6 appear ripped or torn?

7           A     We didn't fool with it.

8           Q     How long were you actually at the scene?

9           A     At that scene? Well, we got there around one  
10 thirty, twenty of two, and I'd say we cleared there at about  
11 five a.m. or so.

12          Q     Did you have anything else to do with this  
13 particular investigation?

14          A     No, sir. That was it. What I did there was the  
15 only thing I did -- well, let me back up. I did have  
16 communications notify Jim Runions from our shop to pick up  
17 the truck, the Chevy pickup truck that they had been in, and  
18 I also had -- I had Deputy Fletcher respond to the trailer  
19 park and secure that vehicle until Jim could get there and  
20 transport it to our compound and secure it.

21                And I also had our dispatch contact a couple  
22 reserves and auxiliaries to come watch that scene. We had to  
23 have the scene protected, preserved, and I didn't have enough  
24 manpower to do it twenty-four hours a day. And I think  
25 reserve Officer Burnette (phonetic) and auxiliary Officer

1 Marinoff (phonetic) responded at that point. And there have  
2 been other reserves and auxiliaries that protected the scene,  
3 but I don't know who they were.

4 Q Okay.

5 A Outside of having -- and I also had homicide and  
6 criminalistics notified, but once I left that scene, I had no  
7 further contact out there.

8 Q Were you given a copy of the sketch of a suspect  
9 and asked to go around and see if you could identify this  
10 person?

11 A Seems to me a composite might have come out. I  
12 really don't remember if we got a composite, to be honest  
13 with you.

14 Q Well, not a composite, just a sketch. I think of a  
15 composite as the Identi-kit thing.

16 A I don't remember back that far if we -- we probably  
17 did get some sort of a sketch. I think something came out,  
18 but -- it had to have. There must have been something.

19 Q You never went out to Holder Park, the other part  
20 of the --

21 A No, sir. I didn't go out there at all.

22 Q Other than the wound to the individual, did you  
23 notice any other injuries that he might have sustained?

24 A No. Once I saw that, that's what I focused on.

25 Q Other than what you testified here today, are you

1 familiar, from your own personal knowledge, of the events  
2 that occurred out there that night?

3 A I read the reports, you know, so I have a --

4 Q Working knowledge of it?

5 A Some sort of an idea what occurred, yes.

6 Q But other than reading the reports?

7 A That's the only thing I -- reading the reports is  
8 my only knowledge of it.

9 Q Had you ever been out there before?

10 A I'm sure during patrol and things, you know, not so  
11 much in the night, but in the daytime, a lot of times the  
12 guys -- we hit these orange groves just to see what's out  
13 there and make sure everything is okay. I probably have been  
14 on that road and just wasn't aware of it that night. I have  
15 been up here five years, I've probably hit every street in  
16 this area numerous times.

17 Q Is that area particularly known for anything,  
18 parking or people going out there shooting their guns?

19 A We really don't have any problems out there, no.  
20 We never had any major problems in the area.

21 MR. PARKER: Thanks. I don't have anything else.  
22 I appreciate it.

23 MR. WHITE: I was just going to ask you to clarify  
24 one thing.

25 CROSS-EXAMINATION

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BY MR. WHITE:

Q I notice in your report that you indicated that the wound to the chest was to the right chest?

A Right chest area, yeah.

Q And today you said left. I don't know --

A That was -- I didn't read it close enough before I came in. It was the right chest area. I rolled him over, his right chest area, lung area.

MR. WHITE: That's all. I just wanted to give you a chance to think about that for a minute. I didn't know if maybe they changed on us.

THE WITNESS: No. I'm sure it didn't change. It's just been a long time.

MR. WHITE: I understand. No problem.

(This deposition was concluded at 3:50 pm. Reading and signing of the deposition were waived.)

\* \* \* \* \*

C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF BREVARD )

I, LAURA FULLER, RPR, CSR, Deputy Official Court Reporter and Notary Public in and for the State of Florida at Large, certify that, pursuant to Notice, I appeared at the Office of the State Attorney, 700 Park Avenue, Titusville, Florida, at the time and date stated above; and was attended by Counsel as shown herein, with the deponent, DIANE CLARK, who was first by me duly sworn and who testified as hereinabove shown.

I FURTHER CERTIFY that I am neither of Counsel, solicitor, nor related to any of the parties, and that I am in no way financially interested in the event of this cause.

I FURTHER CERTIFY that I have retained the original of this deposition and I am filing same with the Clerk of the Court for which it was taken, there to remain, pursuant to rules of said Court.

WITNESS MY HAND and Official Seal of Office in the City of Titusville, County of Brevard, State of Florida, this the 13th day of March, 1990.

\_\_\_\_\_  
LAURA FULLER, RPR, CSR  
Deputy Official Court Reporter