

# Man to be taken off death row

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Convicted murderer Crosley Green, who spent 17 years on death row, likely will be resentenced to life in prison at a hearing before the end of the year.

The date of the resentencing will be scheduled Oct. 28 during a status hearing.

Assistant State Attorney Wayne Holmes said his office is no longer pursuing the death penalty for Green, 51, who was convicted in 1990 of kidnapping and killing Chip Flynn, 22, of Titusville.

"The next step is for everyone involved to agree to set up a date," Holmes said.

After years of appeals by Green, the Florida Supreme Court ruled last year to uphold the murder conviction, but it ordered a new sentencing because the jury shouldn't have heard details of a juvenile crime Green committed in New York, the court said.

Attorney Mark Gruber of the state's Capital Collateral Regional Counsel argued successfully that, in New York, Green was not considered a convicted felon for a gas station robbery committed when he was 18 because it was classified as a youthful-offender case.

But that information was used against him during his trial.

"The Supreme Court agreed that should not have been considered," Gruber said.

Holmes said that because the state no longer could use the robbery and because the Supreme Court ruled that the crime did not meet the criteria of "heinous, atrocious and cruel," a death sentence could not be sustained.

Green, formerly of Mims, was sentenced to death by Judge John Antoon after Antoon agreed with a jury's 7-5 recommendation for the death penalty.

Prosecutors said Green robbed Flynn in a Mims park, then abducted him and his girlfriend, taking them to a nearby orange grove. The girlfriend testified that she escaped while Flynn and Green tussled, adding that she saw Green shoot Flynn.

Green's guilt was questioned, however, after a group of private investigators from Chicago became involved in the case and when four witnesses recanted their testimonies against Green.

They also pushed for DNA testing on hair found at the crime scene. That hair was identified as Green's.

Green and his attorneys have argued for a new trial based on the witnesses who recanted and a report about a juror on the all-white panel who allegedly was seen making a slashing gesture at his throat toward Green.

At least two jurors previously interviewed by FLORIDA TODAY said they felt pressured to change their original not-guilty votes. They said a lack of evidence bothered them. The prosecution produced no murder weapon, and Green's fingerprints were not found inside or outside the truck.

"There is no lingering or residual doubt about the defendant's guilt," Holmes wrote in a motion regarding the resentencing. "The Florida Supreme Court went on to state that, 'the dubious recantations . . . do not weaken the case against Green, so as to give rise to a reasonable doubt as to his culpability.' "