

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JONATHAN STEPHEN SCHWARTZ,

Respondent.

Supreme Court Case
No.

The Florida Bar File
No. 2016-70,106 (11J)

REQUESTS FOR ADMISSION

Complainant, The Florida Bar, requests Respondent Jonathan Stephen Schwartz, pursuant to Fla. R. Civ. P. 1.370, within 45 days after service of this request, to make the following admissions for the purpose of this action only and subject to all pertinent objections to their admissibility.

1. That each of the following statements is true and properly admissible as evidence.

A. That on June 3, 2013, in the case styled State of Florida v. Virgil Woodson, local case no. F13-012946 (Miami-Dade County Circuit Court), the State of Florida filed an information charging Virgil Woodson (“Woodson”) with Armed Robbery and Carrying a Concealed Firearm.

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B. That the victim, Gerdie Tellisma (“Tellisma”), made an out-of-court identification of Woodson as the perpetrator from a six-person photographic line-up provided by the police.

C. That a copy of that line-up, which included the date, the detective’s signature, Tellisma’s signature, and her positive identification of Woodson (indicated by a circle around his photograph), was provided to the defense by the State as a part of its discovery response.

D. That in October of 2013, Woodson retained you to defend him against the charges.

E. That on February 13, 2015, you conducted a discovery deposition of Tellisma.

F. That during the course of the deposition, you confronted Tellisma with Exhibits Two and Three—photo line-ups which were nearly identical in appearance to the original photo line-up prepared by the police and from which Tellisma had made her out-of-court identification.

G. That both exhibits contained Tellisma’s signature, the detective’s signature, and included the circle Tellisma had drawn around photograph no. 5, indicating she had made a positive identification.

H. That, however, the actual photograph of Woodson which you used in your exhibits had been significantly altered, including changes to his hair and appearance.

I. That you did not disclose that Exhibits Two and Three were not true and correct copies of the original line-up, nor did you disclose that you had created and/or altered the line-ups.

J. That by failing to make these disclosures, you misrepresented the nature of Exhibits Two and Three, and attempted to deceive Tellisma into making a misidentification.

K. That by reason of the foregoing, you have violated Rules 3-4.3 (Misconduct and Minor Misconduct) and 4-8.4(c) (Misconduct: A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation...).

2. That each of the following documents, attached, is a true and correct copy and is properly admissible under the rules:

A. A copy the original photographic line-up, including the date, the detective's signature, Tellisma's signature, and her positive identification of Woodson (indicated by a circle around his photograph), which was provided to the defense by the State as a part of its discovery response, attached hereto as Exhibit "A".

B. Copies of your Exhibits Two and Three submitted at the February 13, 2015 deposition of Tellisma, attached hereto as Composite Exhibit “B”.

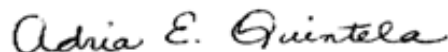
Respectfully submitted,



Thomas Allen Kroeger, Bar Counsel
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(305) 377-4445
Florida Bar No. 19303
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CERTIFICATE OF SERVICE

I certify that this document has been Efiled with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida; with a copy provided via email to Benedict P. Kuehne, Attorney for Respondent, at ben.kuehne@kuehnelaw.com using the Efiling Portal, and that a copy has been furnished by United States Mail via certified mail No. 7017 0190 0000 0892 2893, return receipt requested to Benedict P. Kuehne, Attorney for Respondent, whose record bar address is Law Office of Benedict P. Kuehne, PA, 100 SE 2nd Street, Suite 3550, Miami, Florida 33131-2112; and via email to Thomas Allen Kroeger, Bar Counsel, tkroeger@flabar.org, on this 27th day of July, 2017.



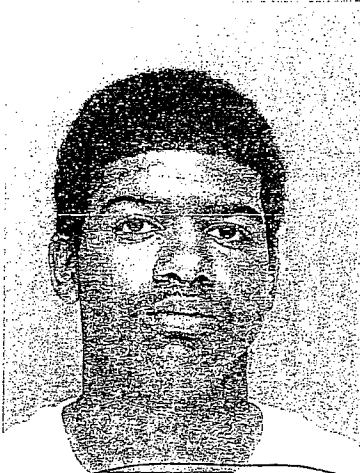
Adria E. Quintela, Staff Counsel

Photographic Line-Up

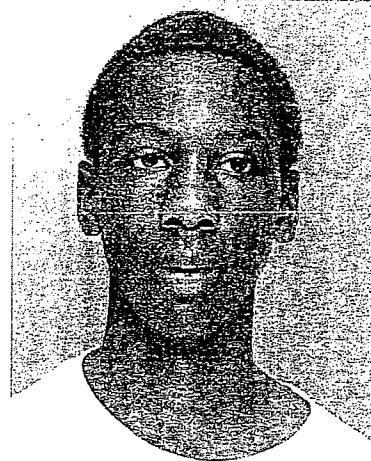
1.



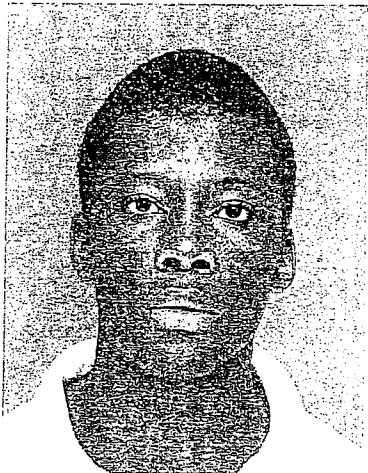
2.



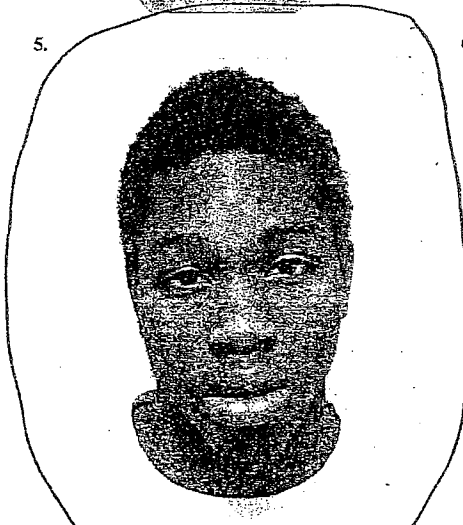
3.



4.



5.



6.



SHOWING PHOTO DISPLAY:

Before conducting the photo line-up, the following should be read to each witness

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : YES NO

Date of Identification : 5/11/13

Photo selected : # 5

Initialed by the witness : *[Signature]*

Det. F. GARDNER
[Signature]

[Signature]

TFB EXHIBIT A

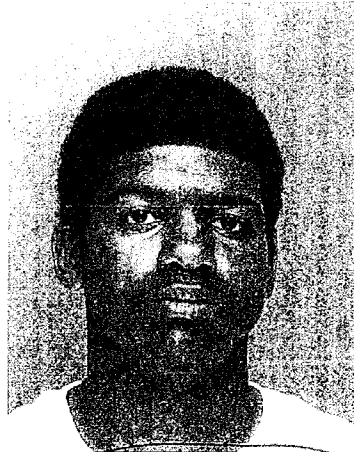
E+2

Photographic Line-Up

1.



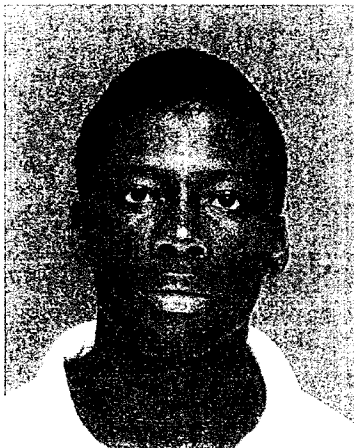
2.



3.



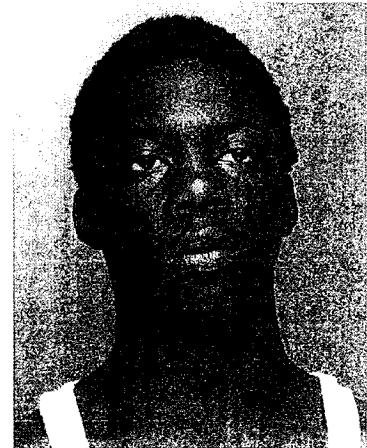
4.



5.



6.



SHOWING PHOTO DISPLAY:

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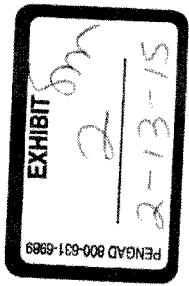
Identification made : YES NO

Photo selected : # 5

Date of Identification : 5/11/13

Initialed by the witness : *[Signature]*

Det. F. GUADARRAMA
[Signature]



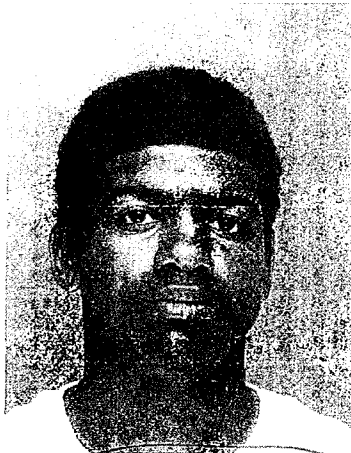
EX 3

Photographic Line-Up

1.



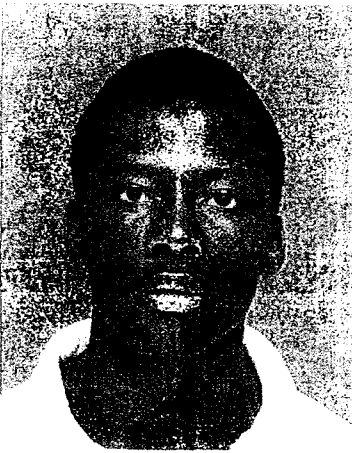
2.



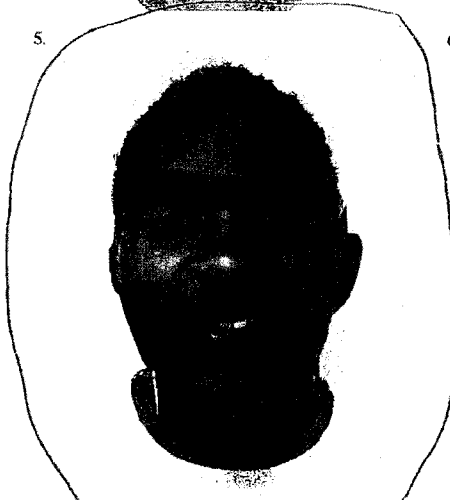
3.



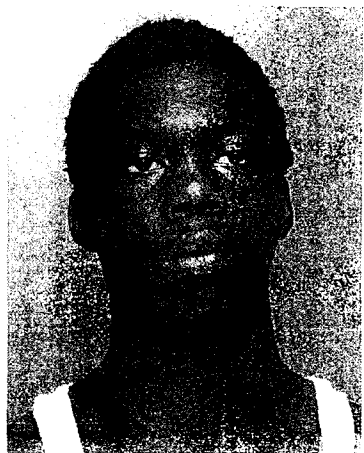
4.



5.



6.



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Identification made : YES NO

Photo selected : # 5

Date of Identification : 5/11/13

Initialed by the witness : *[Signature]*

Det. F. Guss
[Signature]

[Signature]

