

SUPREME COURT OF FLORIDA
CASE NO. SC17-1391
The Florida Bar File No. 2016-70,106 (11J)

THE FLORIDA BAR,
Complainant,

versus

JONATHAN STEPHEN SCHWARTZ,
Respondent.

RESPONDENT'S FIRST REQUESTS FOR ADMISSIONS TO
COMPLAINANT THE FLORIDA BAR

Respondent Jonathan S. Schwartz, pursuant to Rule 1.370 of the Florida Rules of Civil Procedure, requests Complainant The Florida Bar, within thirty (30) days of after service, 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 admissible as evidence.

a. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), defendant Woodson denied commission of the charges of armed robbery and carrying a

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concealed firearm.

b. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Jonathan Stephen Schwartz had a good faith reason to believe defendant Woodson may have been mistakenly identified and was actually innocent of the charges of armed robbery and carrying a concealed weapon.

c. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), law enforcement officers conducted a constitutionally suggestive and unreliable photographic line-up used to obtain the victim's identification of defendant Woodson as the perpetrator.

d. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Jonathan Stephen Schwartz challenged the constitutionality and the admissibility of the photographic line-up.

e. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), the victim, Gerdie Tellisma ("Tellisma") was uncertain of her out-of-court identification of

defendant Woodson as the perpetrator.

f. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Tellisma was influenced in her identification of defendant Woodson as the perpetrator by the unconstitutionally suggestive law enforcement prepared photographic line-up.

g. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Tellisma was never mistreated or denigrated by Respondent Jonathan Stephen Schwartz.

h. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Assistant State Attorney Cristina M. Cabrera was able to be present during the entirety of the Tellisma deposition, but she chose to absent herself from the deposition without first consulting with or obtaining approval from Tellisma.

i. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), before presenting the defense-created photographic line-up to Tellisma in a deposition at which

the Assistant State Attorney was present, Respondent Schwartz specifically instructed Tellisma to “forget what you did before” when showing her the defense-created photographic line-up.

j. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Schwartz specifically instructed Tellisma to “look at them as if you’ve never seen them before” when showing her the defense-created photographic line-up.

k. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Schwartz never represented that the defense-created photographic line-ups were accurate representations of the unconstitutionally suggestive police-created line-ups.

l. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Tellisma never complained that she had been deceived or trick

m. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Schwartz never deceived Tellisma into believing the defense-created photographic

line-up was the same as the police-created photographic line-up.

n. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Respondent Schwartz never misrepresented the nature of the defense-created photographic line-ups.

o. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), the defense-created photographic line-ups were not “nearly identical” to the police-created photographic line-ups.

p. That in connection with the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Interpreter Don Corasmin asserted that at no time did Respondent Schwartz act in any unprofessional manner during the Tellisma deposition.

q. That in connection with the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Court Reporter Susan Mahmoud asserted that at no time did Respondent Schwartz act in any unprofessional manner during the Tellisma

deposition.

r. That in connection with the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), lawyer Jody (Baker) McGuire asserted that at no time did Respondent Schwartz act in any unprofessional manner during the Tellisma deposition.

s. Cristina M. Cabrera, in her capacity as a Miami-Dade Assistant State Attorney, participated in the prosecution of an actually misidentified defendant.

t. The State of Florida has a known history of prosecuting actually innocent persons based on inaccurate eyewitness identification.

u. Respondent Schwartz complied with the precedent of *State v. Kuntsman*, 643 So. 2d 1172 (Fla. 3d DCA 1994), in utilizing the defense-created photographic line-up during the deposition.

v. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), Cristina M. Cabrera affirmatively announced to presiding Judge Bloch she was withdrawing her sanctions motion filed against Respondent Schwartz for the conduct

that forms the basis of Ms. Cabrera's later-filed Bar complaint against Respondent Schwartz.

w. That in the case of *State of Florida v. Virgil Woodson*, Circuit Case No. F13-012946 (Miami-Dade County), the State Attorney's Office offered a reduced boot camp plea offer to defendant Woodson based on weaknesses in the case.

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CERTIFICATE OF SERVICE

I CERTIFY the foregoing was emailed November 7, 2017, to:

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