

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)

---

**COMPLAINT**

The Florida Bar, Complainant, files this Complaint against Jonathan Stephen Schwartz, Respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is, and at all times mentioned in the Complaint was, a member of The Florida Bar, admitted on August 13, 1986, and is subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent resided and practiced law in Miami-Dade County, Florida, at all times material.

3. The Eleventh Judicial Circuit Grievance Committee J found probable cause to file this Complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this Complaint has been approved by the presiding member of that committee.

RECEIVED, 07/27/2017 02:43:26 PM, Clerk, Supreme Court

4. 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.

5. 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. 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. (A copy the original photographic line-up is attached as Exhibit “A”).

6. In October of 2013, Woodson retained Respondent to defend him against the charges.

7. On February 13, 2015, Respondent conducted a discovery deposition of Tellisma.

8. During the course of the deposition, Respondent 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.

9. 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. (Copies of Respondent's Exhibits Two and Three are attached as Composite Exhibit "B").

10. However, the actual photograph of Woodson which Respondent used in his exhibits had been significantly altered, including changes to his hair and appearance.

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

12. By failing to make these disclosures, Respondent misrepresented the nature of Exhibits Two and Three, and attempted to deceive Tellisma into making a misidentification.

13. By reason of the foregoing, Respondent has 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...).

WHEREFORE, The Florida Bar prays Respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.



Thomas Allen Kroeger, Bar Counsel  
The Florida Bar  
Miami Branch Office  
444 Brickell Avenue  
Rivergate Plaza, Suite M-100  
Miami, Florida 33131-2404  
(305) 377-4445  
Florida Bar No. 19303  
[tkroeger@flabar.org](mailto:tkroeger@flabar.org)



Adria E. Quintela, Staff Counsel  
The Florida Bar  
Lakeshore Plaza II, Suite 130  
1300 Concord Terrace  
Sunrise, Florida 33323  
(954) 835-0233  
Florida Bar No. 897000  
[aquintel@flabar.org](mailto:aquintel@flabar.org)

### **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](mailto: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](mailto:tkroeger@flabar.org), on this 27th day of July, 2017.



Adria E. Quintela, Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY  
EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Thomas Allen Kroeger, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Miami Branch Office, 444 Brickell Avenue, Rivergate Plaza, Suite M-100, Miami, Florida 33131-2404, (305) 377-4445 and [tkroeger@flabar.org](mailto:tkroeger@flabar.org). Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, [aquintel@flabar.org](mailto:aquintel@flabar.org).

**MANDATORY ANSWER NOTICE**

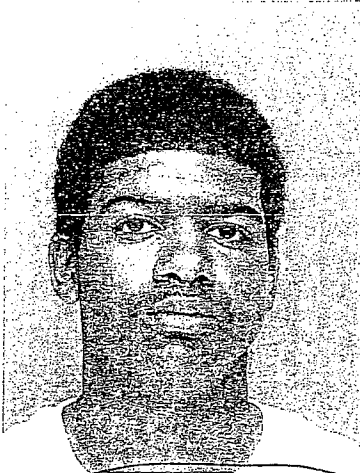
RULE 3-7.6(h)(2), RULES OF DISCIPLINE, EFFECTIVE MAY 20, 2004,  
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.

Photographic Line-Up

1.



2.



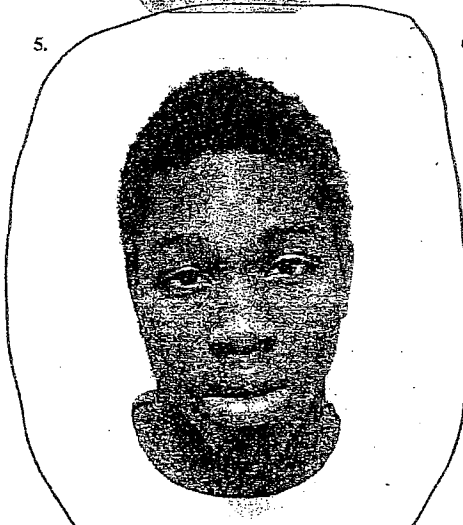
3.



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

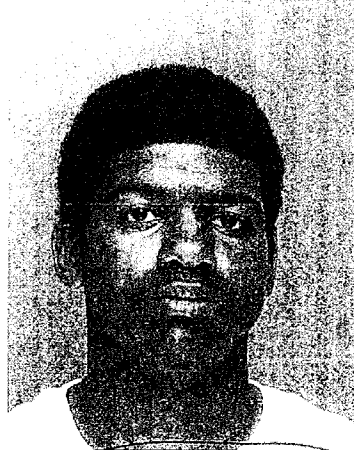
E+2

Photographic Line-Up

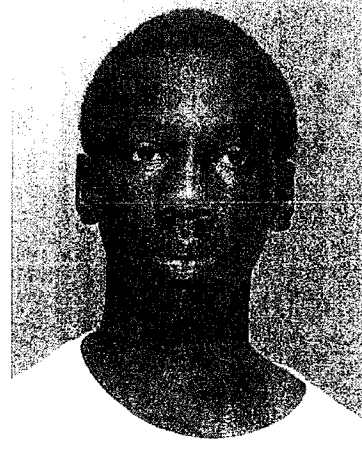
1.



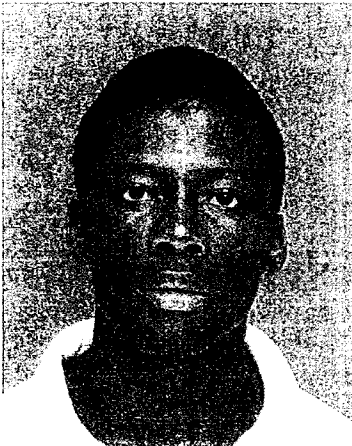
2.



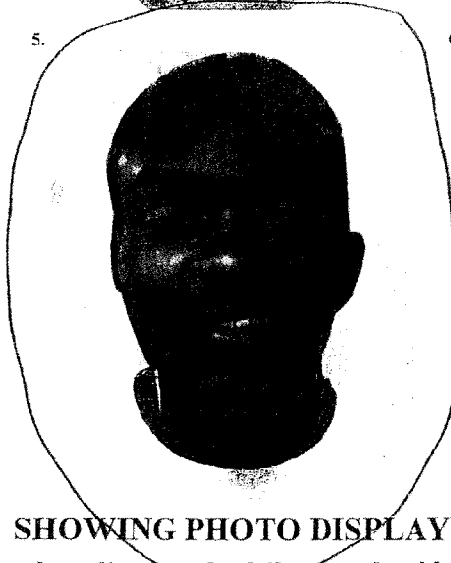
3.



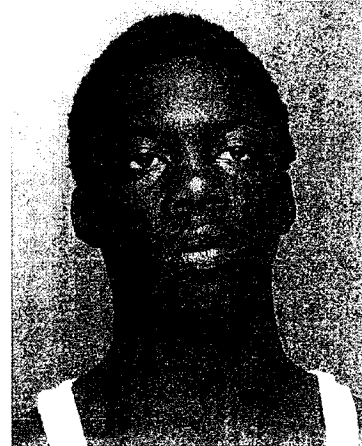
4.



5.



6.



SHOWING PHOTO DISPLAY:

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."

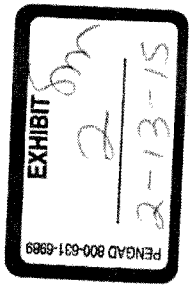
Identification made :  YES  NO

Date of Identification : 5/11/13

Photo selected : # 5

Initialed by the witness : [Handwritten signature]

Det. F. GUADARRAMA [Handwritten signature]





EX 3

Photographic Line-Up



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

Photo selected : # 5

Date of Identification : 5/11/13

Initialed by the witness : *[Signature]*

*Det. F. Guss*  
*[Signature]*

*[Signature]*  
*[Signature]*

