

Winston & Strawn Succeeds in Overturning Murder Conviction in *Boyce v. Braxton*

MARCH 20, 2013

WASHINGTON, D.C. – Winston & Strawn partners [David Koropp](#) and [Elizabeth Papez](#) assisted in overturning the conviction of David Boyce in a 1991 capital murder case. Boyce, who received two life sentences and has been in jail for more than 20 years, was convicted after a fundamentally unfair trial in Newport News, Va. Koropp and Papez wasted no time convincing a Virginia federal court to vacate Boyce’s Virginia state court conviction. In an unusual procedural move, Koropp and Papez opened their case by urging the court to rule without further proceedings because Boyce had a “rare and compelling case for immediate habeas corpus relief.” The court agreed, holding that the prosecution failed to turn over critical evidence in violation of Boyce’s constitutional rights.

“We are very grateful that justice has finally been done in David’s case,” said Koropp, a partner based in Winston & Strawn’s Chicago office.

“Protecting a client’s constitutional rights is one of the most important things a lawyer can do, and it was great to be part of the team that did that for David,” added Papez, a partner in Winston & Strawn’s D.C. office.

Now 42 years of age, Boyce was convicted in the 1990 stabbing death and robbery of his roommate, Timothy Kurt Askew. At trial, the prosecution relied, in part, on the testimony of a hotel clerk, who stated that he saw a, “long-haired man” near the room where the murder took place, and on a crime scene technician, who claimed that Boyce had, “almost shoulder length hair” on the day he was arrested.

Despite Boyce’s repeated requests prior to trial, the prosecution denied having any evidence that would be helpful to Boyce’s defense. However, unbeknownst to Boyce, the police had taken a picture the day he was arrested that directly contradicted the evidence technician’s testimony and showed he had short hair.

None of the biological evidence recovered at the scene of the murder matched Boyce. After years of post-conviction proceedings, the state finally admitted in 2008 to having the picture taken of Boyce the day he was arrested. However, in 2010 a Virginia circuit court refused to overturn Boyce’s conviction, holding that even though Boyce’s constitutional rights had been violated, Boyce was not entitled to relief because he had filed his post-conviction claim too late. This holding was affirmed by both the Virginia appellate court and the Virginia Supreme Court.

On March 19, 2013, federal district Judge James R. Spencer granted Boyce's petition for habeas corpus, finding Boyce's claims were, in fact, timely, vacated his conviction, and ordered that Boyce be retried, or freed, within 120 days.

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