

Winston Successfully Represents David Boyce

APRIL 26, 2013

Winston & Strawn's successful representation of David Boyce in a 1991 capital murder case was covered in the *Daily Press* and *Richmond Times Dispatch* on March 19, 2013. The *Chicago Daily Law Bulletin* also covered the case in the May 2, 2013 article, "Winston Lawyer Helps Inmate to Win Release."

Winston partners assisted in overturning the conviction of Boyce, who has been in jail for more than 20 years after being convicted after a fundamentally unfair trial.

A photograph of Boyce taken during interrogation showed him with short hair, yet he was convicted in large part based on the testimony of a crime scene technician who claimed Boyce had shoulder length hair when arrested, just like the man seen leaving the scene of the crime. Despite its constitutional obligation to turn over any evidence that might help Boyce's defense, the Commonwealth never disclosed the photo depicting Boyce's hair length. A Virginia trial court agreed that the Commonwealth's failure to disclose the photo violated Boyce's due process rights and deprived him of a fair trial, however, he had filed his post-conviction claim too late.

"When the court found that David received an unfair trial and his constitutional rights were violated," a Winston attorney said, "but the court did not believe it had the power or authority to release him from a lifetime in prison — that is a case you definitely want to take on."

Winston argued that his claim was not filed too late, because the state didn't turn over the photograph until 2008, or 18 years after the crime. Federal district Judge James R. Spencer agreed, granted Boyce's petition for habeas corpus on summary judgment, and ordered that he either be retried, or freed, within 120 days.

On April 1, 2013, the Virginia Attorney General's Office announced it will not appeal the decision reversing Boyce's conviction. On April 26, 2013, David Boyce was freed on bond.

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