

21.229

IN THE SUPREME COURT OF THE UNITED STATES

Petitioner, Khai Quang Bui

v.

Respondent, Hernan Ruiz Caballero

---

ON PETITION FOR WRIT OF HABEAS CORPUS  
TO THE SUPREME COURT OF VIRGINIA

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RECEIVED

PETITION FOR WRIT OF HABEAS CORPUS

Khai Bui

1344 Ditchford Dr

Richmond, VA 23102

Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

Number 571-838-0108

**I. QUESTION PRESENTED**

The question asks if under the law of 18 U.S.C. § 1621, a trial court judge would be abusive of discretion to admit the perjurious testimonies of a respondent defendant.

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	9. 28 U.S.C. § 2071	

10. 28 U.S.C. § 2106
11. Constitution of Virginia Article VI Section 5.
12. Va. Code § 8.01-42.1
13. Va. Code § 18.2-57
14. Rule 1:12 of the Supreme Court of Virginia p.24
15. Rule 1:15 (c) of the Supreme Court of Virginia p.27
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24. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs.

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2019

## TABLE OF AUTHORITIES

### **Ruling Cases**

<i>United States v. Dunnigan</i> 507 U.S. 87, 93, 113 S.Ct. 1111, 1116, 122 L.Ed.2d 445 (1993) .....	15,16,18,19,21,22
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## II. INTRODUCTION OF PARTIES TO THE PROCEEDING

### i. APPELLANT IN SUPREME COURT OF VIRGINIA

Khai Quang Bui was the appellant for petition of appeal, Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero. Appellant address: 1124 Duchess dr Mclean VA 22102, Telephone number: 571-389-0693, Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

### ii. APPELLEE IN SUPREME COURT OF VIRGINIA

Hernan Ruiz Cabaellero was the appellee for the petition of appeal, Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero. Appellee address: 7602 Gaylord dr Annandale VA 22003, Telephone number: 703-909-9811, Email: [pf.ruiz2019@gmail.com](mailto:pf.ruiz2019@gmail.com)

### iii. CORPORATE DISCLOSURE

Petition for writ of certiorari is filed by and on behalf of Khai Quang Bui; a corporate disclosure statement is not required when

the filing is not by or on behalf of a corporation.

iv. LIST OF ALL PROCEEDINGS

Proceedings of state trial and appellate courts, including Supreme Court of the United States directly related to the case in this Court:

1. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs. Hernan F. Ruiz Cabaellero, ordered September 18, 2019, ordered May 19, 2020

(1) COMPLAINT RACIAL HARASSMENT AND DOMESTIC CIVIL ASSAULT-BATTERIES filed October 26, 2018

(35) ORDER \*\*\* JUDGE BRETT A. KASSABIAN filed March 5, 2019

(97) MOTION IN LIMNE filed August 29, 2019

(106) ORDER \*\*\* JUDGE RANDY I. BELLOWS filed September 13, 2019

(107) ORDER \*\*\* JUDGE GRACE BURKE CARROLL filed September 18, 2019

(115) ORDER \*\*\* JUDGE GRACE B. CARROLL filed May 19, 2020

(123) NOTICE OF FILING TRANSCRIPT, TESTIMONIES AND  
OTHER INCIDENTS filed September 16, 2020

2. Court of Appeals of Virginia, Record No. 1644-19-4,  
Circuit Court No. CL 2018-15376, Khai Bui v. Hernan F.  
Ruiz Cabaellero, order entered October 30<sup>th</sup>, 2019
3. Supreme Court of Virginia, Record No. 200007, Circuit  
Court No. CL- 2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered December 3<sup>rd</sup> 2019, April 24<sup>th</sup>,  
2020
4. Supreme Court of Virginia, Record No. 201256, Circuit  
Court No. CL- 2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered March 15, 2021
5. Supreme Court of the United States, No. 21-909, Khai  
Quang Bui v. Hernan Ruiz Cabaellero, order February  
22, 2022

III. TABLE OF AUTHORITIES AND TABLE OF CONTENTS

The table of contents page 2-5 and table of authorities page 6-7

are required under rule 14.1 (c). The table of contents included items contained in the appendix.

#### IV. CITATIONS OF ORDERS FROM THE LOWER COURTS

The lower courts orders in each case relate to the order sought for review in the petition for writ of certiorari:

- 1) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, bench trial, order entered September 18, 2019

“This Court enters a verdict in favor of the Defendant, Hernan F. Ruiz Cabaellero against the Plaintiff’s allegation of assault.  
This matter is final.”

- 2) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, amended final order, order entered May 19, 2020

“THIS MATTER came to be heard on the 18<sup>th</sup> day of September 2019 on a bench trial for Plaintiff’s claims of Assault and Battery and Racial Harassment.  
IT APPEARING TO THE COURT that in

rendering its initial decision, the Court already considered all relevant factors and arguments presented by both parties, and  
ADJUDGED, ORDERED and DECREED as follows:

ORDERED that this Court enters a verdict in favor of the Defendant, Hernan Ruiz Cabaellero, against Plaintiff's allegations of assault and battery and racial harassment.  
This matter is final."

- 3) Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero, order entered March 15, 2021

"Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal."

- 4) Supreme Court of the United States, Khai Quang Bui v. Hernan F. Ruiz Cabaellero, February 22, 2022 ordered

"The petition for writ of certiorari is denied."

V. STATEMENT OF JURISDICTION FOR THIS COURT

U.S. Supreme Court by writ of certiorari granted may review an appeal judgment rendered in lower courts including highest court of a State. Rules of the U.S. Supreme Court governing review on certiorari 10 (c) state that “a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.” Supreme Court of Virginia Record No. 201256 Circuit Court No. CL-2018-15376 Khai Bui v. Hernan Ruiz Cabaellero, rendered a decision to denied a reversal of trial court is erred. The Fairfax County Circuit Court CL-2018-15376 Khai Bui v. Hernan Ruiz Cabaellero, the judge use discretion to admit perjuries testimonies are erred.

- i. The order sought to be reviewed was entered on March 15, 2021 by the Supreme Court of Virginia

- ii. The order sought to be reviewed is not a rehearing order by the Supreme Court of Virginia
- iii. This is a petition for a writ of certiorari
- iv. 18 U.S.C. § 1621, 28 U.S.C. § 451, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106, Va. Code § 8.01-42.1, Va. Code § 18.2-57
- v. Statement of notifications as required by Rule 29.4 (b) or (c) have not been made

VI. CONSTITUTIONAL PROVISION AND STATUTES

The federal statutes involved in the case are 18 U.S.C. § 1621, 28 U.S.C. § 451, 28 U.S.C. § 452, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106.

VII. CONCISE STATEMENT MATERIALS TO THE QUESTIONS

In the Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero, the petitioner testified that he was at

the left side of the closet near his room *see.* appendix 20 in the morning when he was assault and batteries. Respondent came out of his room at the end of the hall *see.* appendix 21. The closet takes up most of the hall length and the rooms are on the end of each side *see.* appendix 22. In trial respondent claims that he emailed and mailed exhibits list to be identified as evidences for trial to petitioner. The trial court erred in the finding of respondent emailed or mailed exhibits during discoveries and pretrial The mistake can be observed from a verbatim report of an audio recording of the trial *see.* transcript page 8 line 1- page 10 line 10, proceeding 1. (107), 1. (123) filing of the report, transcript on page 8 line 13, transcript on page 9 line 20, Rule 1:12 of the Supreme Court of Virginia. Perjury is “the willful intent to provide false testimony, rather than [the] result of confusion, mistake, or faulty memory.” *United States v. Hickok* 77 F.3d 992, 1006-07 (7th Cir.1996) (quoting *United States v.*



*Dunnigan* 507 U.S. 87, 93, 113 S.Ct. 1111, 1116, 122 L.Ed.2d 445 (1993)).

Under the law of 18 U.S.C. § 1621, it specifically states that the respondent's testimonies under oath are perjury if there was a willful knowing to provide false testimonies. Under oath, respondent admit that he did not provide Mr. Bui exhibits on the exhibits and witness list *see*. transcript page 10 line 5. The judge decided after the finding of facts to use the exhibits for trial. The decision is erred *see*. transcript page 9 line 20, exhibits on the list were not provided in discoveries, and he was served the motion in limine *see*. transcript page 10 line 2-5, appendix 24, 1. (97). Pursuant to the Rule 1:15 (c), 1:18B of the Supreme Court of Virginia the copies of any exhibits not previously supplied in discovery must be exchange fifteen days before trial. Any exhibits not so identified and filed will not be received in evidence *see*. 1. (106), 1. (97) motion in limine order. The trial judge made an error of law to use the exhibits when respondent testified, he did not

provide exhibits on the list in discovery and perjured on his testimonies of mail *see.* 18 U.S.C. § 1621, Rule 18B(V) of the Supreme Court of Virginia *see.* proceeding 1. (35) and 1. (123).

Under 18 U.S.C. § 1621, respondent perjured in the in trial *see.* transcript page 10 line 5 he said he did not provide exhibits in discovery and *see.* transcript page 107 – page 117, page 108 line 10-13, 15-17, 22-23, page 114 line 3-7, page 114 line 3-7. Respondent's perjury is obvious because Exhibit 3B *see.* appendix 23 document letter date was after discovery. It would be impossible to have Exhibit 3B *see.* appendix 23 mail or delivered in discovery. The end time for discovery was August 18, 2019 but the date of the employment letter was August 23, 2019 *see.* 1.(35). Police officer testified that he saw petitioner injuries on the day of the assault and batteries. He testified on transcript page 28 line 18 – page 29 line 8 to injuries questions. The judge overruled an objection later on when respondent cross-examine officer testimonies. The overruled is on transcript page 39 line 8 but his

testimonies on transcript page 28 line 23 – page 29 line 8 are admissible *see*. Rule 2:103 (a) of the Supreme Court of Virginia. Officer testified that he believe so that it was an injury and yes that was a cut.

Officer testified tenant in the house in the room next to his had assaulted him and the laundry happened to be next to the defendant's room *see*. transcript page 20 line 16-22, appendix 22. Exhibit 1B or appendix 22 shows that the rooms are separate by the closet and on the exhibit the word "plaintiff" with an arrow showing the plaintiff's room and the location of the plaintiff when respondent came out of his bedroom. Plaintiff later testified the closet half open on the left side of the closet because the left side is closest to my room and the defendant came out of his room in that corner *see*. transcript page 58 line 9-16, appendix 21.

Under the law of 18 U.S.C. § 1621 respondent testimonies about the assault and batteries are perjuries *see. United States v. Hickok* 77 F.3d 992, 1006-07 (7th Cir.1996) (quoting *United States*

*v. Dunnigan* 507 U.S. 87, 93, 113 S.Ct. 1111, 1116, 122 L.Ed.2d 445 (1993)). Respondent told the police officer on August 21, 2018 that he began walking down the hall and when near the laundry the petitioner opened the laundry room door directly into the defendant's face *see. transcript* page 42 line 21– page 43 line 1. Respondent under oath testified in court during trial that he was coming out of the room, he saw the door it just kind of slam over him *see. transcript* page 118 line 7,8. He also testified that he got hit hard on his arm *see. transcript* page 118 line 11-14, page 118 line 15-18.

Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero denied an appeal on petition assignment of errors.

i. The stage in the proceedings in courts when federal question was raised:

1 Fairfax County Circuit Court, CL 2018-15376, Khai Bui v. Hernan F. Ruiz Cabaellero, proceeding 1.(107), trial

2 Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL- 2018-15376, Khai Bui v. Hernan Ruiz Cabaellero, proceeding 4., order entered March 15, 2021

- ii. This is not a review of a judgment of a United States court of appeals

#### VIII. DIRECT AND CONCISE ARGUMENT

Petitioner moved for hearing of motion in limine in trial *see.* proceeding 1. (97). Proof of perjury is that respondent never did email or mail trial materials *see.* proceeding 1. (123). He answered to a different question when the judge asked him about email and mail *see.* page 8 line 1- page 10 line 10, page 9 line 20. Respondent testimonies on page 9 line 20 is a perjury as he made it after a different declaration on page 8 line 13-14 *see.* 18 U.S.C. § 1621. He told the police a story then changed his story on stand after he saw the pleadings of the case and heard officer and plaintiff testified in court *see.* transcript page 19-37, page 45-93, page 103-126, Rule 2:103 (a) of the Supreme Court of Virginia, Rule 2:801

(c) of the Supreme Court of Virginia. Respondent perjured testimonies are violations of 18 U.S.C. § 1621. Trial judge erred in the finding of facts at the beginning of trial and during respondent testimonies of the exhibits *see.* appendix 16 - Rule 1:18B, transcript page 10 line 2-10, page 107- 117, page 107-108, page 108 line 10-12, 18 U.S.C. § 1621. Respondent perjured on page 108 line 12 *see.* transcript page 10 line 5, page 10 line 2-10. JUDGE erred in admit respondent testimonies and exhibits under penalties of perjuries because respondent testified earlier that he did not provide exhibits on the list during discoveries then he testified that he did provide exhibits in discoveries during proffer of evidences *see.* 18 U.S.C. § 1621, *United States v. Hickok* 77 F.3d 992, 1006-07 (7th Cir.1996) (quoting *United States v. Dunnigan* 507 U.S. 87, 93, 113 Sc.D. 1111, 1116, 122 L.Ed.2d 445 (1993)).

Respondent testimonies of the assault and batteries are perjuries under oath *see.* 18 U.S.C. § 1621 *see.* transcript page 118 line 7,8

and Rule 3:8 (a) of the Supreme Court of Virginia. Police officer testified respondent told him *see*. transcript page 42 line 22 and 18 U.S.C. § 1621. Judge erred in finding that defendant perjured testimonies *see*. transcript page 42 line 22, page 118 line 7,8, and 18 U.S.C. § 1621 is consistent with police officer's testimonies.

JUDGE erred in admitting respondent perjury statements *see*. 18 U.S.C. § 1621 in trial with regard to material exhibits for trial and direct testimonies of respondent which is materially different than his previous statements to the police *see. United States v. Hickok* 77 F.3d 992, 1006-07 (7th Cir.1996) (quoting *United States v. Dunnigan* 507 U.S. 87, 93, 113 Sc.D. 1111, 1116, 122 L.Ed.2d 445 (1993)).

The Supreme Court of Virginia *see*. proceeding 4. assignments of errors were on the testimonies and exhibits of the exhibits and witness list *see*. III. Error I was exhibit list should have been excluded under Rule 18B(V) of the Supreme Court of Virginia. The trial testimonies showed that respondent perjured to the

judge *see.* transcript page 8 line 12 – page 10 line 5, page 10 line 2-10, and page 107-117, page 108 line 10-12, Rule 15 (c), 18(V) of the Supreme Court of Virginia, and 18 U.S.C. § 1621. Error II was petitioner injuries should be admitted *see.* transcript page 25, page 28 line 23, page 29 line 1-8, page 34 line 1-7. Error III was evidences and testimonies from respondent should not have been admitted and result in unfair outcome *see.* Rule 18B(V) of the Supreme Court of Virginia. Respondent perjured that he delivered exhibits list and sent exhibits during discovery *see.* transcript page 8 – page 10 line 10, page 107-117, page 108 line 10-13, page 118 line 7,8, page 42 line 22 and 18 U.S.C. § 1621. Error IV was scheduling order require submission of objection before trial. Respondent did not file an objection to petitioner trial exhibits. Pursuant to Rule 18B(V) of the Supreme Court of Virginia, respondent waived his rights to make objection on plaintiff's exhibits in the trial. Error V was trial court err is reversable when it enters a May 19, 2020 order. An error of law



is reversible when a judge discretion to admit perjuries and exhibits *see*. transcript page 8 – page 10 line 10, page 8 line 12, page 9 line 20, page 107 – page 117, (when respondent perjured) page 108 line 10-13, page 118 line 7,8, page 42 line 22 and 18 U.S.C. § 1621. This was the problem when respondent perjured to gain evidences and testimonies in trial to support his pleadings and without provide evidences in discovery.

On September 18, 2019 in the Fairfax County Circuit Court CL 2018-15376, the respondent took an oath before a judge that he will testify, declare, depose, or certify truly; respondent willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true is guilty under the law of 18 U.S.C. § 1621. Respondent perjured on the declaration under oath that he mailed the exhibits and witness list. He previously declared that he emailed it. Respondent perjured as a witness when he testified that he was hit on the arm as soon as he came out of his room *see*. transcript page 118 line 7,8. He previously

told the police officer in the assault and batteries investigation that he walked down the hall *see*. transcript page 42 line 22, and when near the laundry plaintiff open the laundry room door. Respondent perjured as a witness when he proffered exhibits and the judge asked him if he had provided exhibit during discoveries from plaintiff's objection. He testified that he did provide it in discovery *see*. page 108 line 12-13 contrary to his testimonies on transcript page 10 line 2-5.

Petitioner asks this Court to grant the rehearing petition for writ of certiorari to the Supreme Court of Virginia on the ground of perjury as written in 18 U.S.C. § 1621. The order on March 15, 2021 by the Supreme Court of Virginia should be reverse and remand as respondent's testimonies are perjury under the law of 18 U.S.C. § 1621; the Fairfax County Circuit Court CL2018-15376 case should be reverse and remand for liabilities damages of Virginia statutes *see*. Va. Code § 8.01-42.1, Va. Code § 18.2-57 *see*. *also*. Constitution of Virginia Article VI Section 5, 28 U.S.C. §

1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, U.S.C.  
§ 2071, 28 U.S.C. § 2106.

IX. APPENDIX

1. Supreme Court of Virginia, Record No. 201256 Circuit  
Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order March 15, 2021
2. 18 U.S.C. § 1621
3. 28 U.S.C. § 451
4. 28 U.S.C. § 452
5. 28 U.S.C. § 1257
6. 28 U.S.C. § 1292
7. 28 U.S.C. § 1651
8. 28 U.S.C. § 1652
9. 28 U.S.C. § 2071
10. 28 U.S.C. § 2106
11. Constitution of Virginia Article VI Section 5.
12. Va. Code § 8.01-42.1

13. Va. Code § 18.2-57
14. Rule 1:12 of the Supreme Court of Virginia p.24
15. Rule 1:15 (c) of the Supreme Court of Virginia p.27
16. Rule 1:18B of the Supreme Court of Virginia p.60
17. Rule 2:103 (a) of the Supreme Court of Virginia p.108
18. Rule 2:801 (c) of the Supreme Court of Virginia p.162  
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20. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs.  
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22. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs.  
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23. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs.  
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24. Fairfax County Circuit Court, CL2018-15376, Khai Bui vs.  
Hernan F. Ruiz Cabaellero, motion in limne August 29,  
2019

Date: April 2, 2022

Khai Bui

Khai Bui

1124 Duchess dr

Mclean, VA 22102

Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

Number: 571-389-0693

## CERTIFICATE

I certify under penalty of perjury that the foregoing is true and correct.

The petition rehearing is presented in good faith and not for delay. The petition is restricted to the new substantial ground, 18 U.S.C. § 1621, not previously presented.

April 2, 2022

Khai Bui

Khai Bui

Petitioner,