United States District Court
For the Southern District of New York

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Oscar Armando Cabrera Vicente,

Petitioner,

v.

Dkt No:

Markwayne Mullin,
And Officer Montgomery,

Initials:

Respondents.

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Verified Petition for a Writ of Habeas Corpus

Submitted by:

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Attorney for Petitioner

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BB 8381

Verified Petition for a Writ of Habeas Corpus

1. Petitioner, Oscar Armando Cabrera Vicenta, is currently in ICE custody, upon information and belief, at the Nassau County Correctional Facility at Carmen Avenue in East Meadow, NY.

2. His immigration A-number is: [redacted].

3. Mr. Cabrera brings this petition for a writ of habeas corpus seeking his immediate release under 28 U.S.C. 2241.

4. Mr. Cabrera's home address is: [redacted].

Respondents

5. Respondent, Markwayne Mullin is Secretary of the United States Department of Homeland Security with an address at 245 Murray Lane SW, Washington DC 20528.

6. Respondent, Officer Montgomery, is an ICE Officer with an address at 201 Varick St Rm 1219 New York, NY 10014.

Facts

7. Mr. Cabrera is a native and citizen of El Salvador who, upon information and belief, first came to the United States sometime around April 2023. He is approximately 33 years of age.

8. Upon information and belief, Mr. Cabrera was on his way to his old address at approximately 4 pm on June 10, 2026 in order to pick up his mail, when he was detained by ICE agents.

9. Upon information and belief, Mr. Cabrera has a United States citizen daughter [redacted]

10. Upon information and belief, when Mr. Cabrera was stopped by ICE agents they did not have a warrant for his arrest.

11. Mr. Cabrera was scheduled for an immigration court hearing for August 24, 2026 at 9:00 am before an Immigration Judge at 201 Varick St, New York, NY.

12. At no time did the arresting officers consider whether Mr. Cabrera was a flight risk before detaining him.

13. Upon information and belief, Mr. Cabrera has at least two arrests for DWI. He was scheduled for an appearance at the Nassau District Court for June 11, 2026 under case number CR-006037-26NA.

14. Mr. Cabrera now respectfully submits this petition seeking his immediate release from ICE custody.

First Claim

15. Petitioner repeats and realleges all facts in paragraphs 1 through 14.

16. Mr. Cabrera's arrest was unlawful because it was made without probable cause to believe he is an alien and without probable cause to believe he is a flight risk, as required by 8 U.S.C. 1357(a)(2) and 8 C.F.R. 287.8(c)(2)(ii). See, Refugio Ramirez Orlando v Noem, 2025 U.S. Dist LEXIS 234204 (Dist CO, J. Brook Jackson, Nov 25, 2025).

Second Claim

17. Petitioner repeats and realleges all facts in paragraphs 1 through 14.

18. Mr. Cabrera's detention is unlawful because he is not subject to detention under 8 U.S.C. section 1225. da Cunha v Freden, 175 F.4th 61 (2d Cir. 2026).

Third Claim

19. Petitioner repeats and realleges all facts in paragraphs 1 through 14.

20. Mr. Cabrera's detention is unlawful because his detention is contrary to due process of law.

Fourth Claim

21. Petitioner repeats and realleges all facts in paragraphs 1 through 14.
22. Mr. Cabrera's detention is unlawful because he is not subject to detention under any provision of 8 U.S.C. 8 U.S.C. section 1231. Parra v Favro, 2026 U.S. Dist LEXIS 83965, 2026 WL 1030870 (N.D.N.Y 2026); Li Qun Chen v Noem, 2026 U.S. Dist LEXIS 28872 (S.D.N.Y. 2026); Diallo v Joyce, 2025 U.S. Dist LEXIS 265532, 2025 WL 3718477 (S.D.N.Y. 2025).

WHEREFORE, it is respectfully requested that Mr. Cabera's transfer outside the Southern District of New York be stayed; that his removal be stayed; and that he be ordered released from custody on his own recognizance.

Attorney Verification

I, Bruno J Bembi, attorney at law, affirm that the above statements are true, except for those made upon information and belief, and as to those, I have a reasonable, good faith basis to believe they are true.

Respectfully submitted,

Dated: June 11, 2026

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