U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

June 12, 2026

By ECF
The Honorable Dale E. Ho
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Cabrera Vicente v. Mullin*, No. 26 Civ. 4962 (DEH)

Dear Judge Ho:

This Office represents Respondents (the "Government") in the above-referenced immigration habeas corpus action, brought by Oscar Armando Cabrera Vicente ("Petitioner"), a non-citizen who is challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). Yesterday, the Court issued an order directing the government to file a letter responding to certain questions by 12:00 p.m. today. ECF No. 3. I write respectfully to provide that response.

a. whether Petitioner was, as the Petition alleges, *see* ECF No. 1 at 2-3, located in the Southern District of New York at the time that the Petition was filed;
    a. No, Petitioner was not present in the Southern District of New York at the time the habeas petition was filed. Petitioner was detained in ICE custody at the Nassau County Correctional Center in East Meadow, New York at the time the habeas petition was filed on June 11, 2026. Petitioner was arrested by ICE in Nassau County on June 10, and then detained at the Nassau County Correctional Center that same day, where he remained at least through this morning.
    b. Under *Öztürk v. Hyde*, 136 F.4th 382 (2d Cir. 2025), the inquiry is where the petitioner was located at the time the petition was filed. *Id.* at 391 (acknowledging the Supreme Court's general rule for core habeas challenges that "jurisdiction lies in only one district: the district of confinement," and explaining that "[a]t the time the petition was filed, that 'one district' was the District of Vermont, where Öztürk was in transit to an ICE facility for the night. Vermont is therefore the *only* district in which the petition could have been brought at the time it was filed."); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004) (for challenges to detention, "jurisdiction lies in only one district: the district of confinement"). Here, at the time the petition was filed, Petitioner was detained in Nassau County, which is within the Eastern District of New York. Thus, the Court should promptly transfer this action to the Eastern District of New York so that this matter can be heard in the proper court without delay.

b. Petitioner's A-number, current place of detention, and a contact person who can facilitate prospective counsel's access to Petitioner;
    a. Petitioner's A-number is [redacted].

b. As of his morning, Petitioner was still detained at the Nassau County Correctional Center in East Meadow, New York. However, ICE has informed this Office that he will be transferred to a long-term facility today, but a facility has not yet been confirmed as of this filing. In terms of a contact to facilitate access to counsel, for now, Petitioner's counsel may contact the undersigned and I can assist as needed.

c. the statutory provision(s) under which Respondents assert the authority to detain Petitioner; if Respondents assert that Petitioner is detained under 8 U.S.C. § 1226(a), they shall state the basis for their exercise of discretion to detain Petitioner;

a. Respondents assert that Petitioner's detention is governed by 8 U.S.C. § 1226(c)(1)(E) based on his criminal history, specifically, a pending charge for Grand Larceny 4th.

d. whether there is any basis to distinguish this case from the Second Circuit's decision in *Cunha v. Freden*, __ F.4th __, No. 25-3141, 2026 WL 1146044 (2d Cir. Apr. 28, 2026), or from any other decision of this Court. If Respondents take the position that the outcome of this Petition is controlled by *Cunha* or any other decisions of this Court, then the submission may take the form of a letter conceding that point and indicating whether Respondents would consent to issuance of the writ — subject to preservation of Respondents' arguments for appeal.

a. This case is distinguishable from the Second Circuit's decision in *Cunha*, as Respondents do not assert that Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A). This case is also distinguishable from this Court's decisions in *Rueda Torres v. Francis*, No. 25 Civ. 8408 (DEH), 2025 WL 3168759 (S.D.N.Y. Nov. 13, 2025), and *Rivera Guzman v. Arteta*, No. 26 Civ. 2808 (DEH), 2026 WL 1045920 (S.D.N.Y. Apr. 16, 2026), which concerned the applicability of 8 U.S.C. § 1226(c)(1)(E), as ICE asserts that Petitioner's charge for Grand Larceny 4th is currently pending. Thus, for these reasons and because venue is improper, Respondents do not consent to issuance of the writ.

e. a copy of any final order of removal; and

a. Petitioner does not have a final order of removal.

f. any information regarding the procedural posture of any pending Department of Homeland Security or Executive Office for Immigration Review proceedings.

a. Petitioner's next master calendar hearing is currently scheduled for August 24, 2026.

* * *

I thank the Court for its consideration of this submission.

Respectfully submitted,

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United States Attorney

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cc: Counsel of Record (by ECF)