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David Salant Discusses “Potentially Game-Changing” Immigration Habeas Decision With New York Law Journal

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New York Law Journal

The New York Law Journal [PDF] has reported on a “potentially game-changing” immigration habeas decision won by a Gibson Dunn pro bono team in Manhattan federal court where local police officers’ misconduct towards a migrant was found to be so unlawful that his later custodian, U.S. Immigration and Customs Enforcement (ICE), had to immediately release him.

Attorneys representing Olvin Castillo Chaver, who was arrested on February 13, 2026, during a traffic stop after police found a yellow pill they asserted was cocaine, “believe the decision marks the first time that any federal court has forced ICE to release an immigration detainee over Fourth Amendment violations committed by local police—and they think the order provides a roadmap for advocates who represent people who lack any means under the Immigration and Nationality Act to challenge their detention, and must instead rely on the U.S. Constitution.”

After the arrest, ICE reinstated a prior removal order against Castillo Chaver, who came to the U.S. unlawfully when he was 11. During an April 16 hearing, Gibson Dunn partner David Salant argued that the arrest was unlawful in a number of ways — that no one would have mistaken the yellow pill for cocaine and that, even if the pill was enough to support an arrest, the officers couldn’t have stopped Castillo Chaver for a pill they couldn't see from outside his car — and was pretextual. Pointing to a phone call that the Nassau County Police Department made to ICE an hour before the arrest, David argued that local authorities made a determination about Castillo Chaver’s ability to stay in the U.S., advised ICE, and then made sure to encounter and arrest Castillo Chaver later.

David argued that this represented “a seriously violative Fourth Amendment stop and arrest” and that “the illegal arrest by local police infected ICE's subsequent detention.”

David told the publication that ICE’s removal order forced the team to develop a new legal strategy. “He was detained under Section 1231 of the INA, which is this very harsh provision that calls for mandatory detention … and gives [Department of Homeland Security] and ICE extensive authority to detain,” David said. “It was exciting … to offer up a novel legal theory. It was also totally nerve-wracking. We were transparent to the court about that.”

The Gibson Dunn team, led by partner David Salant and including associates Beshoy Shokralla and Stephanie Chen, worked on the case with LatinoJustice, Make the Road NY, and the Robert & Ethel Kennedy Human Rights Center.

Related People

David P. Salant

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