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Jailed Man Sues

CARBAJAL from A3

Patrick McCormack, spokesman for the district attorney's office; and Insp. Pete Matuza of Nassau police all declined to comment.

Carbajal was charged with two felonies and faced up to 25 years in prison if convicted.

Donald Kane, the Hempstead lawyer who helped in getting Carbajal released, said that when he saw the video it was clear to him his client was not the man in it. "I gathered half a dozen witnesses, including his boss, who swore that Jose was at work when the video was made. I brought them to the office of the assistant district attorney who had the case," said Kane, who took the case after Carbajal refused an offer a court-assigned lawyer brought him for 8 months in jail and 5 years' probation on a felony.

"I said no," Carbajal said. "I had done nothing wrong."

Kane said his entreaties were finally enough to persuade an assistant district attorney to recommend Carbajal's release without bail. "But they still sent the case on to the grand jury, which refused to bring a true bill and in effect dismissed it."

In papers now before U.S. District Judge Arthur D. Spatt, Brewington argues that "failing to properly identify plaintiff, refusing to conduct even the most rudimentary investigation despite numerous protestations of innocence . . . and refusing to confirm a decisive alibi, all form part of a pervasive pattern of neglect and callous indifference towards the systemic violations of civil and due process rights among minority persons."

Leon Friedman, a Hofstra University professor of constitutional and criminal law, said, "There has to be probable cause, a substantial basis for arrest, and if any reasonable lay person can determine that the arrested man is not the man in the video, then he has a good case."