UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AGAPITO ACOSTA

Petitioner,

v.

PAUL ARTETA, *et al.*,

Respondents.

No. 25 Civ. 9916 (MKV)

DECLARATION OF SUPERVISORY DETENTION AND DEPORTATION OFFICER JOHN CAREY

Pursuant to 28 U.S.C. § 1746, I, John Carey, hereby declare under penalty of perjury that the following is true and correct:

1. I am a Supervisory Detention and Deportation Officer at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS"). As a Supervisory Detention and Deportation Officer, I manage the cases of aliens who are in immigration proceedings, and certain aliens who are in detention.

2. I have prepared this declaration in connection with a Petition for a Writ of Habeas Corpus filed by the petitioner, Agapito Acosta ("Acosta"). Acosta has been assigned the following Alien Number [redacted] The following representations are based on my review of Acosta's administrative file, consultation with my colleagues, and review of ICE electronic records and databases.

3. Acosta is a native and citizen of El Salvador who illegally entered the United States at an unknown time and an unknown place.

4. On May 21, 2001, Acosta filed a Form I-821, Application for Temporary Protected Status ("TPS"), with the U.S. Citizenship and Immigration Services ("USCIS"). On May 19, 2003, USCIS denied Acosta's TPS application.

5. Acosta has a criminal history in the state of New York.

6. On October 5, 2000, Acosta was convicted of criminal possession of a weapon in the fourth degree in violation of New York Penal Law ("NYPL") 265.01. He was sentenced to an order of protection and time served.

7. On April 13, 2004, Acosta was convicted of attempted assault in the third degree in violation of NYPL 120.00(1). He was sentenced to time served.

8. On June 11, 2025, ICE arrested Acosta pursuant to an I-200, Warrant of Arrest. After processing, Acosta was transferred to Orange County Jail in Goshen, New York, on June 12, 2025.

9. Acosta is currently detained at the Orange County Jail pursuant to Immigration and Nationality Act ("INA") § 235(b)(2)(A), 8 U.S.C. §1225(b)(2)(A).

10. On June 11, 2025, ICE issued a Notice to Appear ("NTA"), charging Acosta as inadmissible under INA section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. ICE served the NTA on Acosta in person on June 11, 2025, during processing. ICE subsequently served the NTA on the Varick Immigration Court in New York, NY, thereby commencing removal proceedings against Acosta.

11. On June 18, 2025, Acosta appeared *pro se* for his first master calendar hearing before an Immigration Judge at the Varick Immigration Court. The case was adjourned for Acosta to consult with an attorney.

12. On June 25, 2025, Acosta appeared for his second master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Michelle Dari. The case

was adjourned at Acosta's request for his attorney to assess whether there were competency issues and for attorney preparation.

13. On July 7, 2025, Acosta appeared for his third master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The case was adjourned at Acosta's request for his attorney to contact a psychologist to evaluate him.

14. On July 14, 2025, Acosta appeared for his fourth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The allegations and the charge in the NTA were sustained and, at Acosta's request, the case was adjourned to a master hearing on July 21, 2025, to provide his attorney with additional time to contact a psychologist to evaluate him.

15. On July 21, 2025, Acosta appeared for his fifth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The case was again adjourned at Acosta's request for his attorney to contact a psychologist to evaluate him.

16. On August 6, 2025, Acosta appeared for his sixth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The case was again adjourned at Acosta's request for his attorney to contact a psychologist to evaluate him.

17. On August 20, 2025, Acosta appeared for his seventh master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The case was adjourned at Acosta's request to conclude a psychological evaluation, which was expected to take place over several weeks.

18. On September 8, 2025, Acosta appeared for his eighth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero.

The case was adjourned at Acosta's request to afford him additional time to conclude a psychological evaluation.

19. On September 22, 2025, Acosta appeared for his ninth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The case was adjourned at Acosta's request to conclude a psychological evaluation. ICE opposed any additional continuances for Acosta to receive a psychological evaluation.

20. On October 28, 2025, Acosta appeared for a *Matter of M-A-M* hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. The Immigration Judge found Acosta to be incompetent and therefore implemented a series of safeguards. The safeguards, issued orally on the record, included: (1) permitting Acosta's counsel to ask leading questions if Acosta is non-responsive, (2) allowing counsel to refresh Acosta's recollection, (3) allowing testimony from family and friends to be proffered, and (4) allowing Acosta to take breaks, as needed.

21. On November 12, 2025, Acosta appeared for his tenth master calendar hearing before an Immigration Judge at the Varick Immigration Court with his attorney Marina Salguero. Acosta filed an application for relief. The case was set for an individual hearing on December 10, 2025.

22. On December 10, 2025, counsel for Acosta appeared for the hearing at the Varick Immigration Court. The hearing did not go forward due to scheduling conflicts on the court's docket. The case was set for an individual merits hearing for January 15, 2026.

I hereby declare under the penalty of perjury that the above statements are true and correct.

Executed at New York, New York

this 22nd day of December 2025.

John Carey
Supervisory Detention and Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security