

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SERGIO ALBERTO BARCO
MERCADO,

Plaintiff,

v.

KRISTI NOEM, et al.

Defendants.

Case No.: 25-cv-6568

DECLARATION OF NANCY ZANELLO

I, Nancy Zanello, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an Assistant Field Office Director (“AFOD”) in the New York City Field Office of Enforcement and Removal Operations (“ERO New York”) at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”). As the AFOD, I am responsible for, among other things, oversight of the civil immigration arrest and detention of aliens in the New York City area. In my role as the AFOD, I have access to records maintained in the ordinary course of business by ICE, including documentary records concerning ERO New York and the alien detainees who fall within its responsibility.

Detention Conditions at the 26 Federal Plaza ERO Field Office

2. The 26 Federal Plaza ERO Field Office in Manhattan, New York, accommodates office space for ERO New York, office space for ICE attorneys, a waiting area, a processing area for ERO check-ins, and a processing area for arrests.

3. The processing area at the 26 Federal Plaza ERO Field Office is comprised of four ICE hold rooms with the following square footage: Room #1 – 820.78 sq. ft.; Room #2 – 173.87 sq. ft.; Room #3 173.04 sq. ft.; and Room #4 655.12 sq. ft. The maximum capacity for the ICE hold rooms was set by the fire marshal at 154. Currently, there are 24 aliens in custody at the 26 Federal Plaza ERO Field Office.

4. The ICE hold rooms at the 26 Federal Plaza ERO Field Office are primarily used for the short-term confinement of aliens while they await transfer to other ICE detention facilities, immigration court hearings, removal, or other processing. The 26 Federal Plaza ERO Field Office operates in compliance with ICE Directive No. 11087.2, Operations of ERO Holding Facilities (issued Jan. 31, 2024).

5. The majority of aliens in custody at the 26 Federal Plaza ERO Field Office are transported to other ICE facilities within 72 hours absent exceptional circumstances. Currently, there are six (6) aliens at the 26 Federal Plaza ERO Field Office who have been held there for more than 72 hours.

6. For those aliens held in custody at the 26 Federal Plaza ERO Field Office (and not in transit elsewhere), the ICE Online Detainee Locator System depicts them as being held at “26 Federal Plaza, New York, NY 10278.”

7. Aliens in custody in the ICE hold rooms at the 26 Federal Plaza ERO Field Office are separated by sex.

8. Each ICE hold room is equipped with at least one toilet and sink, with one of the ICE hold rooms equipped with two each. Hygiene products are made available, including soap and teeth cleaning wipes. Feminine hygiene products are also made available.

9. Aliens in custody are permitted to change clothes and are issued a change of clothes, e.g., sweatshirts, pants, or shoes, upon request. Upon request, ICE provides private surroundings for aliens to change clothes.

10. The ICE hold rooms are not equipped with private sleeping quarters, but blankets are provided. Aliens in custody can ask for multiple blankets. Blankets are regularly cleaned. Concrete bench seating is available in each ICE hold room.

11. The ICE hold rooms and bathrooms are cleaned with industrial cleaning products multiple times a day.

12. Aliens in custody are provided with two nutritional meals a day. One meal is provided upon the alien's initial arrival. Subsequent meals are generally provided at least six hours apart. Additional meals are available upon request. Mealtimes may fluctuate due to unforeseen mission requirements or operational circumstances. ICE accommodates aliens' medical or religious dietary requirements for aliens in custody.

13. Bottled water is provided to the aliens in custody at all times throughout the day. Water is also readily available via the sinks in the ICE hold rooms.

14. Medical personnel from the ICE Health Service Corps (IHSC) are assigned to the 26 Federal Plaza ERO Field Office to provide medical care and attention to the aliens in custody. IHSC staff are available daily from 7:00 a.m. until 9:30 p.m. In the event of a medical emergency requiring further medical attention, aliens in custody are transported to nearby medical facilities.

15. Aliens in custody are permitted to bring in their prescription medication that they had in their possession at the time of arrest. Aliens in custody are also permitted to have their attorney or family member later bring their prescription medication. All medications – whether

brought in by the alien or later provided – are received and administered to the alien by IHSC personnel.

Access to Counsel at the 26 Federal Plaza ERO Field Office

16. Upon arrival, aliens held in custody at the 26 Federal Plaza ERO Field Office are provided opportunities to make calls, including to attorneys, family, friends, or the consulate. All calls can be made free of cost to the alien.

17. Aliens in custody at the 26 Federal Plaza ERO Field Office can make as many free, unmonitored legal calls to their attorneys via an available landline. There is no time restriction on the legal calls. The legal calls are not recorded.

18. Facilities at the 26 Federal Plaza ERO Field Office are not equipped with the infrastructure to host in-person legal visitation or with dedicated attorney call rooms for the aliens in custody.

19. Language assistance services are provided for aliens who have limited English proficiency. Spanish-speaking ICE officers are also available to help with translations when needed.

Sergio Alberto Barco Mercado (Barco Mercado)

20. Barco Mercado has been detained at the Orange County Correctional Facility (“OCJ”) in Goshen, New York, pursuant to Immigration and Nationality Act (“INA”) section 235(b), 8 U.S.C. § 1225(b) since August 10, 2025. He has been in ICE custody since August 8, 2025.

21. Barco Mercado is a native and citizen of Peru.

22. On July 4, 2022, Barco Mercado entered the United States near San Luis, Texas, without inspection and was apprehended by the U.S. Customs and Border Protection (“CBP”) the

same day. Barco Mercado did not possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document.

23. On July 6, 2022, CBP personally served Barco Mercado with a Notice to Appear (“NTA”) charging him as inadmissible under INA section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(7)(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. He was placed into removal proceedings. On July 11, 2022, Barco Mercado was released under bond.

24. On June 26, 2023, Barco Mercado was arrested by the New York City Police Department and charged with two counts of Aggravated Harassment in the Second Degree under NY Penal Law § 240.30(4) and Harassment in the Second Degree under NY Penal Law § 240.26(3), a misdemeanor and violation, respectively.

25. On August 8, 2025, Barco Mercado appeared before an Immigration Judge at the 26 Federal Plaza building. During this hearing, it came to light that Barco Mercado resided in New Jersey, and the Immigration Judge ordered a change of venue to the Newark Immigration Court.

26. Upon departing court, Barco Mercado was apprehended by ICE and detained at the ICE hold rooms in the 26 Federal Plaza ERO Field Office without bond pursuant to 8 USC § 1225(b). He was provided with a phone call to his partner and with his assent, consular notification was provided to the Peruvian consulate.

27. On August 10, 2025, Barco Mercado was transferred from 26 Federal Plaza to OCJ. Barco Mercado has access to medical staff at OCJ. He also has multiple means of communicating with his attorney, including in-person attorney visits which are authorized seven days a week, from 8:00 a.m. to 10:00 p.m. Barco Mercado also has access to tablets that allow for communication

with his attorney after setting up an account. Confidential telephone and video calls with his attorney are also available and arranged by contacting the OCJ Visiting Officer.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 11, 2025

NANCY ZANELLO
Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security