

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FRANCISCO ANTONIO DONAYE-CONTRERAS,

Petitioner,

v.

25-CV-01272-JLS

KRISTI NOEM, in her Official Capacity, Secretary of the U.S.
Department of Homeland Security, et al.,

Respondents.

**RESPONDENTS' MEMORANDUM OF LAW IN REPLY TO PETITIONER'S
OPPOSITION AND IN FURTHER SUPPORT OF THE MOTION TO DISMISS**

Petitioner's opposition appears to stem from a different case, referring to "this District" but citing to the Southern District of Georgia, and citing to arguments purportedly raised by the government, but that the government never made. ECF No. 10 at pg. 8 (referring to the *Villa v. Normand* case, and its controlling effect).

Nothing in the remainder of Petitioner's papers establishes why this Court should reverse itself and disclaim the prior holding in *Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025), which already addressed and rejected the arguments Petitioner makes in the Petition and in opposition to the motion to dismiss.

Accordingly, the motion to dismiss should be granted because Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) as an alien who entered the United States without admission or inspection and parole, and is thus an applicant for admission presently.

Respectfully submitted,

MICHAEL DIGIACOMO
United States Attorney
Western District of New York

BY: /s/ADAM A. KHALIL
Assistant United States Attorney
100 State Street, Suite 500
Rochester, New York 14614
(585) 399-3979
adam.khalil@usdoj.gov