

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, INDIANAPOLIS DIVISION

**Maribel Xirum, Javier Jaimes Jaimes, and Baijebo Toe v. U.S.
Immigration and Customs Enforcement (ICE), U.S. Department of
Homeland Security (DHS), Kristi Noem, Todd M. Lyons, Monica S.
Burke, Ricardo A. Wong, Travis Graham, Angelina Ramos, Virginia
Sutter, Jennifer M. Flater, and Mike Melendez**

No. 1:22-cv-00801-TWP-KMB (S.D. Ind. Dec. 1, 2025) · No. No. 1:22-cv-00801-TWP-KMB · Decided
December 1, 2025

SUMMARY

The United States District Court for the Southern District of Indiana denied plaintiffs’ request to compel inclusion of the Davidson Memorandum in the administrative record for their claims concerning ICE payments to and oversight of Clay County. The court held that plaintiffs had not presented non-speculative evidence that ICE directly or indirectly considered the memorandum when making the challenged decisions, despite its citation in the Homan Memorandum. The court ordered defendants to serve an amended administrative record including the Homan Memorandum and set deadlines for proposing a briefing schedule on anticipated cross-motions for summary judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Indianapolis Division
WRITING FOR THE COURT	Kellie M. Barr
JURISDICTION	United States District Court for the Southern District of Indiana, Indianapolis Division
DECIDED	December 1, 2025
DOCKET	No. 1:22-cv-00801-TWP-KMB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved to compel completion of the administrative record for Counts III and IV of their amended complaint. After an earlier order granted the motion as to the Homan Memorandum, denied it as to broad categories of other documents, and reserved the issue of the Davidson Memorandum, the court reviewed the Davidson

	Memorandum filed ex parte and denied the request to add it to the administrative record.
STANDARD OF REVIEW	Under the Administrative Procedure Act, review is generally confined to the administrative record already in existence. An agency's certified record is entitled to a strong presumption of regularity, which a plaintiff may overcome only by identifying reasonable, non-speculative, concrete grounds showing that specific materials were directly or indirectly considered by the actual agency decision makers but omitted from the record.
PRECEDENTIAL VALUE	Unknown; district court order
PARTIES	Maribel Xirum, Javier Jaimes Jaimes, Baijebo Toe v. U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS), Kristi Noem, Todd M. Lyons, Monica S. Burke, Ricardo A. Wong, Travis Graham, Angelina Ramos, Virginia Sutter, Jennifer M. Flater, Mike Melendez

TOPICS

administrative procedure act judicial review of agency action administrative law discovery dispute
civil procedure

PRACTICE AREAS

Administrative law Immigration law Federal civil procedure Government contracts

QUESTIONS PRESENTED

1. Whether the Davidson Memorandum should be added to the administrative record because it was cited in the Homan Memorandum.
2. Whether the Davidson Memorandum's relevance to Plaintiffs' APA claims was sufficient to overcome the presumption that the agency's certified administrative record was complete.
3. Whether the court needed to decide Defendants' attorney-client and deliberative-process privilege arguments concerning the Davidson Memorandum.

HOLDINGS

1. No. Relevance to the claims and citation in another document do not, without more, establish that the agency directly or indirectly considered the document when making the challenged decisions.
2. Plaintiffs did not overcome the strong presumption of regularity because they identified no non-speculative, concrete evidence that the Davidson Memorandum was directly or indirectly considered by the actual agency decision makers.

3. No. Because the Davidson Memorandum was not part of the administrative record on non-privilege grounds, the court did not reach Defendants' privilege arguments.

KEY QUOTATIONS

“The complete administrative record consists of all documents and materials directly or indirectly considered by the agency.” (Applicable Legal Standard)

“But neither of these, without more, constitute a reasonable basis to believe that the Davidson Memorandum was considered by ICE when making the decisions challenged here.” (Discussion)

“Thus the Plaintiffs' request to compel the Defendants to include the Davidson Memorandum in the Administrative Record is denied.” (Conclusion)

FACTUAL BACKGROUND

Plaintiffs' Counts III and IV challenge ICE's payments to Clay County and its alleged failure to ensure that Clay County properly used federal funds in connection with detention services. The Homan Memorandum, authored by ICE's Acting Director in response to a Department of Homeland Security Inspector General report, states ICE's position concerning Intergovernmental Services Agreements and federal procurement requirements. The Homan Memorandum cited the Davidson Memorandum only to support the historical proposition that ICE had long viewed an IGSA as a procurement contract rather than a cooperative agreement.

PROCEDURAL HISTORY

Plaintiffs brought an Administrative Procedure Act action challenging ICE's payments to Clay County and its alleged failure to ensure proper use of federal funds. Plaintiffs moved to supplement the administrative record with the Homan Memorandum, the Davidson Memorandum, and related documents. The court's First Order granted the motion as to the Homan Memorandum, denied it as to the broad third category, and reserved the Davidson Memorandum issue. This Second Order resolves the reserved issue and directs service of an amended administrative record containing the Homan Memorandum.

DISPOSITION

other

CASES CITED

- *Camp v. Pitts*, 411 U.S. 138, 142 (1973)
- *Bodo v. McAleenan*, 2019 WL 3776064, at *5 (N.D. Ill. Aug. 12, 2019)
- *USA Group Loan Services, Inc. v. Riley*, 82 F.3d 708, 715 (7th Cir. 1996)
- *Miami Nation of Indians of Indiana v. Babbitt*, 979 F. Supp. 771, 775 (N.D. Ind. 1996)
- *Univ. of Colorado Health at Memorial Hospital v. Burwell*, 151 F. Supp. 3d 1, 12-13 (D.D.C. 2015)
- *Franks v. Salazar*, 751 F. Supp. 2d 62, 69-70 (D.D.C. 2010)
- *Citizens for Appropriate Rural Roads v. Foxx*, 815 F.3d 1068, 1081 (7th Cir. 2016)

- Oceana, 290 F. Supp. 3d 73, 79 (D.D.C. 2017)
- Taylor Energy Co. LLC v. United States, 2021 WL 538052, at *2 (D.D.C. Feb. 15, 2021)

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