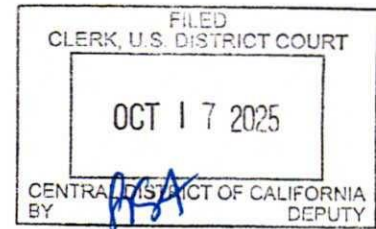


1 Yuri Decyatnik
2 A# [REDACTED]
3 Adelanto Detention Facility
4 10250 Rancho Road
5 Adelanto, CA 92301

6 Petitioner Pro Se

7 N/S

FEE DUE



9 United States District Court
10 Central District of California
11 Western Division

12 Yuri Decyatnik
13 (first name also spelt Yury)
14 Petitioner,

15 v.

16 Kristi Noem, Secretary of
17 Homeland
18 Security;

19 Pamela J. Bondi, Attorney General
20 of the United States;

21 Thomas Giles, Los Angeles Field
22 Office Director, Bureau of
23 Immigration and Customs
24 Enforcement;

25 James Pilkington, Assistant Field
26 Office Director, Adelanto Detention
Facility,

Warden, Geo Group Inc, Adelanto
Detention Facility

Respondents.

No. 2:25cv 10027 -AH-PD

DHS No. [REDACTED]

Petition For a Writ of Habeas
Corpus By a Person in Federal
Custody Under 28 U.S.C. § 2241

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1 **Memorandum of Points and Authorities**

2 **I. Introduction & Background**

3 Decyatnik is a citizen of the defunct USSR, born in the region now
4 belonging to Ukraine. In 1990, he entered the United States as a refugee
5 and later obtained Lawful Permanent Resident Status. Convictions lead
6 INS to begin deportation proceedings.

7 Decyatnik was first taken into ICE custody in June 18, 2001, and he
8 challenged that indefinite detention. *Decyatnik v INS*, 2:02-cv-00979,
9 Docket 3 (W.D. Wash 2002). In those proceedings, INS represented that
10 they had requested travel documents to deport Decyatnik, but didn't
11 receive a response from Ukraine. But the magistrate judge disagreed and
12 issued a report and recommendation, recommending granting the
13 petition and ordering his release. In that report, the magistrate judge
14 noted the additional complication that Ukraine does not recognize
15 Decyatnik as citizen. *Id.* at docket 16. Rather than objecting, INS
16 released him.

17 But they then arrested him again on August 10, 2003. After he filed
18 another petition, they didn't even respond, and instead, released him on
19 February 9, 2004. *See Decyatnik v. Ashcroft*, 03-cv-03970 (W.D. Wash
20 2003).

21 They have now arrested him a *third time* on or about May 16, 2025,
22 in Miami, Florida.

23 The Government's repeated arrest-and-release policy of Decyatnik
24 violates the constitutional demand of release within six months, and
25 represents a bad faith effort to skirt those requirements.
26

II. Habeas Allegations

Petitioner provides the following information related to his habeas petition:

- **Place of Detention:** At the time of this filing, Petitioner is detained by Immigration and Customs and Enforcement (ICE) at the Adelanto Detention Facility in Adelanto, California.
- **Name and Location of Court Which Imposed Removal Order:** Former INS District Director, Seattle Washington.
- **The Immigration Case Number:** Department of Homeland Security, 
- **The Date Upon Which Removal Order Was Imposed:** Decyatnik was ordered removed by the former INS in Seattle Washington on February 26, 2002.
- **Did You Appeal from the Removal Order?** No.
- **If You Did Appeal, Provide Information Related to that Appeal:** Not applicable
- **State concisely every ground on which you claim you are being held unlawfully.** Explained below.
- **Previous petitions:**
 - *Decyatnik v INS*, 2:02-cv-00979 (W.D. Wash 2002)
 - Claim raised: indefinite detention in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
 - Result: The Report and Recommendation recommended granting habeas relief. *Id.* at Docket 16. Immediately thereafter, INS released Decyatnik. *Id.* at Docket 17. Then, the case was dismissed as moot. *Id.* at 18

- *Decyatnik v. Ashcroft*, 03-cv-03970 (W.D. Wash 2003)
 - Claim raised: indefinite detention in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
 - Result: release of Decyatnik and stipulated dismissal.
- **Do you have any petition, appeal or parole matter pending in any court, either state or federal, as to the removal order under attack? No.**
- **If you are seeking leave to proceed *in forma pauperis*, have you completed the declaration setting forth the required information? Filed concurrently herein.**

III. Claims & Arguments

A. Decyatnik Must Be Released Because There is No Good Reason to Believe He Will Be Deported to Ukraine in the Reasonably Foreseeable Future.

The Due Process Clause limits a “a [noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this constitutional limitation, the immigration detention statute “does not permit indefinite detention.” *Id.*; see 8 U.S.C. § 1231.

Detention following the removal period is presumptively limited to six months. “After this 6-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701.

1 ICE has taken custody of Decyatnik since May 16, 2025. Although
2 not quite at the 6 month limit, they have arrested him twice before—
3 representing well over 6 months of custody. This policy of catch-release-
4 and-catch, is nothing more than an attempt to skirt the 6-month period
5 mandated by *Zadvydas*.

6 There is no significant likelihood of removal to Ukraine in the
7 foreseeable future. As the prior magistrate judge noted, Decyatnik is not
8 a citizen of Ukraine. *Decyatnik v INS*, 2:02-cv-00979, Docket 16 (W.D.
9 Wash 2002). That is correct. See Refworld, *Nationality Laws of the*
10 *Former Soviet Republics*, § 14 et. seq. (1993). As he is not a Ukrainian
11 citizen, he is therefore, effectively stateless and Ukraine will not take
12 him.

13 Moreover, it appears that because of the war, removals to Ukraine
14 are impossible. At least one court has credited the assertion that “ICE is
15 not currently deporting Ukrainians due to the Russian invasion” and that
16 “removal of Petitioner is not reasonably foreseeable in the near future
17 even if he obtains a removal order.” *Raspoutny v. Decker*, 708 F. Supp. 3d
18 371, 384 (S.D.N.Y. 2023). In *Raspoutny*, the court ordered a new bond
19 hearing in light of the “indefinite suspension of deportations to Ukraine”
20 and the resulting “potential indefiniteness of Raspoutny's detention even
21 after his removal proceedings are complete.” *Id.* at 385.

22 Additionally, commercial flights largely cannot enter Ukraine due
23 to the war. See *Removal of the Prohibition Against Certain Flights in*
24 *Specified Areas of the Dnipro Flight Information Region*, 88 Fed. Reg.
25 73529 (Oct. 26, 2023) (explaining that the restriction issued on February
26 24, 2022, remains in effect).

1 All told, there is no reasonable likelihood that Decyatnik could be
2 removed in the foreseeable future, given that: (1) he's not a citizen of
3 Ukraine; (2) the war prevents deporting him; and (3) flights couldn't even
4 go to Ukraine if ICE wanted to. Therefore, this Court should grant the
5 Writ.

6 **B. Decyatnik's detention in immigration custody pending**
7 **removal to any third country violates the Due Process**
8 **Clause of the Fifth Amendment because ICE has not given**
9 **him sufficient notice of the proposed third country and an**
10 **opportunity to request deferral or withholding of removal**
11 **to that country under either statute or the Convention**
12 **Against Torture.**

13 "It is well established that the Fifth Amendment entitles
14 [noncitizens] to due process of law in the context of removal proceedings."
15 *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per curiam) (quoting *Reno*
16 *v. Flores*, 507 U.S. 292, 306 (1993)). Noncitizens are thus entitled to
17 "notice and an opportunity to be heard appropriate to the nature of the
18 case." *Id.* (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339
19 U.S. 306, 313 (1950)). As relevant here, this means that purported non-
20 citizens are entitled to notice that they are to be removed to a third
21 country "within a reasonable time and in such a manner as will allow
22 them to actually seek habeas relief in the proper venue before such
23 removal occurs." *Id.*

24 Decyatnik has not been formally ordered removed to any country
25 other than Ukraine. As such, he has never had an opportunity to contest
26

1 removal to any third country on the grounds that he may face persecution
2 or torture if he is removed to that country.

3 Therefore, to the extent that Decyatnik's detention is meant to
4 facilitate his removal to a third country, *see generally Zadvydas*, 533 U.S.
5 at 690 (suggesting that detention following a removal order is intended to
6 facilitate removal), if such a removal is accomplished in violation of his
7 due-process rights, then his detention is illegal. This due-process claim
8 "necessarily impl[ies] the invalidity of [his] confinement and removal" to
9 a third country not yet named in any removal order. *J.G.G.*, 145 S. Ct. at
10 1005. Thus, his due-process claim is properly brought in a habeas
11 petition, and a court order that he be released from detention is a proper
12 remedy for such a violation.

IV. Conclusion

For the foregoing reasons, this Court should:

- Order the government to answer this petition,
- Expedite any briefing and relief, as Petitioner's current custody is illegal;
- Allow him to conduct discovery in order to support his claim for relief;
- Convene an evidentiary hearing, if needed to resolve disputed facts;
- Order Respondents to release him from their custody; and
- Grant any other relief that is just and practicable.

Respectfully submitted,

Dated: 10/13/2025

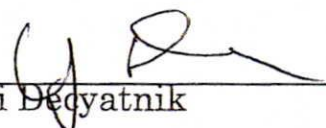
By: 

Yuri Decyatnik
Petitioner Pro Se

V. Verification

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Because I am detained in ICE custody without access to many of my documents, much of the above is necessarily based on my recollection.

Dated: 10/13/2025

By: 
Yuri Decyatnik