

JON M. SANDS
Federal Public Defender
KEITH J. HILZENDEGER #023685
Assistant Federal Public Defender
250 North 7th Avenue, Suite 600
Phoenix, Arizona 85007
(602) 382-2700 voice
keith_hilzendeger@fd.org
Attorneys for Petitioner Malitskyi

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Pavlo Malitskyi,

Petitioner,

vs.

David R. Rivas, Warden, et al.,

Respondents.

No.

**Motion for Appointment of Counsel
Under 18 U.S.C. § 3006A(a)(2)(B)**

Simultaneously with this document, Mr. Malitskyi has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. In his petition, he asserts that because of the war between Ukraine and Russia, his removal to Ukraine is not likely in the foreseeable future, such that his continued detention by immigration officials violates the Fifth Amendment's Due Process Clause. Because he is almost certain to prevail on this claim, he respectfully asks the Court to appoint Assistant Federal Public Defender Keith Hilzendeger to assist him in litigating his petition. Mr. Hilzendeger has spoken with Mr. Malitskyi, and reports that Mr. Malitskyi has agreed to accept representation if the Court should appoint counsel.

Under 18 U.S.C. § 3006A(a)(2)(B), this Court may appoint counsel for any person seeking relief under 28 U.S.C. § 2241. Mr. Malitskyi is seeking relief under that provision. The Ninth Circuit has said that a court should appoint counsel under this provision if the petitioner is likely to succeed on his petition and to have difficulty "articulat[ing] his claims *pro se* in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)

1 (per curiam). Mr. Malitskyi came to the United States in 2024 under the Biden-era “Uniting for
2 Ukraine” program, under which the U.S. government agreed to resettle up to 100,000
3 Ukrainians displaced by the war with Russia who had passed stringent screening criteria. He does
4 not speak English, and so he does not read English. (Both Russian and Ukrainian, his preferred
5 languages, are written in slightly different versions of the Cyrillic alphabet.) For these reasons, he
6 does not have the wherewithal to litigate this complex challenge to his indefinite detention by
7 immigration officials on his own from a jail cell where he does not have the documentation
8 necessary to refute the government’s case for continued detention. And for the reasons set forth
9 in the motion for a preliminary injunction, he is almost certain to succeed on his claim. Mr.
10 Malitskyi thus respectfully asks the Court to appoint Assistant Federal Public Defender Keith
11 Hilzendeger to assist him in this matter.

12 Respectfully submitted:

August 14, 2025.

13 JON M. SANDS
14 Federal Public Defender

15 s/Keith J. Hilzendeger
16 KEITH J. HILZENDEGER
17 Assistant Federal Public Defender
18 *Attorney for Petitioner Malitskyi*
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