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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**06/27/2022**  
Clerk of the Court  
BY: EDNALEEN ALEGRE  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

NONHUMAN RIGHTS PROJECT, INC., on  
behalf of Amahle, Nolwazi, and Vusmusi,  
individuals,

*Petitioner,*

vs.

FRESNO'S CHAFFEE ZOO CORPORATION,  
and JON FORREST DOHLIN, in his official  
capacity as Chief Executive Officer & Zoo  
Director of the Fresno Chaffee Zoo,

*Respondents.*

Case No.: CPF-22-517751

**PETITIONER'S OPPOSITION TO  
RESPONDENTS' MOTION FOR AN  
ORDER TRANSFERRING MATTER TO  
FRESNO COUNTY SUPERIOR COURT**

Date: July 11, 2022

Time: 9:30 a.m. PST

Location: 400 McAllister St., San Francisco,  
CA, 94102

Courtroom: Department 302 (Law & Motions  
Hearings)

Date Action Filed: May 3, 2022

Trial Date: unknown

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I. INTRODUCTION**

3 Respondents’ motion to transfer venue should be denied. A transfer can only be ordered for a  
4 substantial reason, and no substantial reason exists in this case.

5 As a preliminary matter, Nonhuman Rights Project, Inc (hereafter “NhRP”) notes that, as this  
6 Court has not yet issued an order to show cause pursuant to Cal. Rules of Court 4.551(c)(1),  
7 Respondents are not yet parties to this case. Respondents therefore have no basis for making any  
8 motions at this stage in the litigation. *See People v. Martinez* (2009) 47 Cal.4th 399, 419 n. 2 (“We  
9 observe that persons who are not parties to litigation ordinarily cannot be heard in the litigation.  
10 In civil litigation a nonparty who has not formally intervened ordinarily  
11 cannot make a motion (*Difani v. Riverside County Oil Co.* (1927) 201 Cal. 210, 214, 256 P.  
12 210; *Marshank v. Superior Court* (1960) 180 Cal.App.2d 602, 605, 4 Cal.Rptr. 593; see generally  
13 6 Witkin, *Cal. Procedure* (5th ed. 2008) Proceedings Without Trial, § 4, p. 430.)”).

14 **II. ARGUMENT**

15 “In general, a habeas corpus petition should be heard and resolved by the court in which the  
16 petition is filed.” *In re Roberts* (2005) 36 Cal.4th 575, 585 (hereafter *Roberts*); *see also* Cal. Rules  
17 of Court 4.552(a) (“Except as set forth in subdivision (b)(2), the petition should be heard and  
18 resolved in the court in which it is filed.”). “[W]hen a petitioner has complied with pertinent rules,  
19 the superior court in which the petition is presented should file and review the allegations of the  
20 petition in order to determine whether it states a prima facie case for relief.” *Roberts*, 36 Cal.4th  
21 at 583.

1 “[A] petition for writ of habeas corpus should not be transferred to another court unless a  
2 substantial reason exists for such transfer.” *Id.* Substantial reasons include those mentioned in Cal.  
3 Rules of Court 4.552(b)(2), which provides:

4 (A) If the petition challenges the terms of a judgment, the matter may be  
5 transferred to the county in which judgment was rendered. (B) If the  
6 petition challenges the conditions of an inmate’s confinement, it may be  
7 transferred to the county in which the petitioner is confined. . . . (C) If the  
8 petition challenges the denial of parole or the petitioner’s suitability for  
9 parole and is filed in a superior court other than the court that rendered the  
10 underlying judgment, the court in which the petition is filed should  
11 transfer the petition to the superior court in which the underlying judgment  
12 was rendered.

13  
14 No “substantial reason” exists in this case. According to Respondents, there are two reasons  
15 for transferring venue: (1) because the NhRP challenges the conditions of the elephants’  
16 confinement; and (2) because the NhRP’s petition would be more properly heard in Fresno County.  
17 As shown below, both arguments fail.

18 **A. This is not a “conditions of confinement” case**

19  
20 Respondents misrepresent the NhRP’s petition by asserting that it is “challenging the condition  
21 of the elephants’ nominal confinement.” Resp’t Mot. 5. This is false. The Petition explicitly states:  
22 “The Petition does not challenge . . . the conditions of Amahle, Nolwazi, and Vusmusi’s  
23 imprisonment. Rather, it challenges the legality of the elephants’ imprisonment itself and seeks  
24 their discharge from the Fresno Zoo.” NhRP Pet. ¶ 17.

25 Contrary to Respondents, the NhRP’s petition explains why the elephants’ imprisonment at  
26 the Fresno County Zoo itself is unacceptable. For it “violates their common law right to bodily  
27 liberty protected by habeas corpus and is therefore unlawful because it deprives the elephants of  
28 their ability to meaningfully exercise their autonomy and extraordinary cognitive complexity.

1 including the freedom to choose where to go, what to do, and with whom to be.” NhRP Pet. ¶ 5.  
2 As such, the Petition seeks the elephants’ *discharge* from the Fresno Zoo—not changes to their  
3 conditions at the zoo. See *People v. Romero* (1994) 8 Cal.4th 728, 743, as modified on denial of  
4 reh'g (Jan. 5, 1995) (“in habeas corpus proceedings, relief is granted . . . by an order or judgment  
5 directing the petitioner's release from custody or alteration of the conditions of the petitioner's  
6 confinement.”) (emphasis added).

7 Accordingly, the exception provided in Cal. Rules of Court 4.552(b)(2)(B), permitting a  
8 transfer in cases where the petition “challenges the conditions of an inmate’s confinement,” does  
9 not apply.

10 **B. The Petition would not be more properly heard in Fresno County**

11 Respondents argue, in the alternative, that “the petition would be more properly heard in the  
12 Fresno County Superior Court” based on considerations of convenience and the purported interests  
13 of the Fresno County community. Resp’t Mot. 6. Neither consideration warrants transfer.

14 First, Respondents cite *Griggs v. Superior Court* (1976) 16 Cal.3d 341, 347 (hereafter *Griggs*)  
15 for its language that a trial court should have the option to transfer a case when “an evidentiary  
16 hearing is necessary” and the individuals who would participate in that hearing are “more  
17 efficiently available” to another court. Resp’t Mot. 6-7 (citing *Griggs*, 16 Cal.3d at 347). However,  
18 even Respondents concede that “[i]t remains to be seen if an evidentiary hearing will be necessary”  
19 in this case. Resp’t Mot. 7. The NhRP’s case will likely present a pure question of law, and all the  
20 relevant facts can be introduced and contested via affidavits. If an evidentiary hearing is necessary,  
21 court hearings can now readily be held on Zoom. If an in-person evidentiary hearing occurs,

1 Petitioner’s attorney of record is located just north of San Francisco and Respondents’ attorneys  
2 are based out of San Francisco. Respondents’ convenience argument, therefore, has no basis.

3 Second, Respondents’ assertion that the Fresno County community “stands the most to lose  
4 from the petition” completely ignores that this is a habeas corpus proceeding. *Id.* Whether the  
5 Fresno County community may want to see Amahle, Nolwazi, and Vusmusi kept at the zoo is no  
6 basis for transferring the Petition. When an individual is illegally imprisoned, it is irrelevant  
7 whether members of the community want to see that individual kept in prison.

8 **III. Conclusion**

9 As no substantial reason exists for transferring the Petition, the NhRP respectfully  
10 submits that Respondents’ motion must be denied.

11  
12 DATED: June 27, 2022

Nonhuman Rights Project, Inc.

13 By: \_\_\_\_\_ /S/ Monica Miller

14 MONICA M. MILLER

15 STEVEN M. WISE

16 JAKE DAVIS

17 Attorneys for Petitioner

18 Nonhuman Rights Project, Inc. on behalf of Amahle, Nolwazi, and Vusmusi, individuals  
19

1  
2 **PROOF OF SERVICE**

3 Nonhuman Rights Project, Inc., on behalf of Amahle, Nowazi, and Vusmusi, individuals,

4 v.

5 FRESNO'S CHAFFEE ZOO

6 CORPORATIO, and Jon Forrest

7 Dohlin, in his official capacity as Chief Executive Officer & Zoo Director of the Fresno  
8 Chaffee Zoo

9 San Francisco Superior Court, Case no. CPF-22-517751

10 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

11 At the time of service, I was over 18 years of age and not a party to this action. I am  
12 employed in the County of Los Angeles, State of California. My business address is 811  
13 Wilshire Blvd, Suite 900, Los Angeles, CA 90017.

14 On June 27, 2022, I served true copies of the following documents described as:

15 **PETITIONER'S OPPOSITION TO RESPONDENTS' MOTION FOR AN ORDER**  
16 **TRANSFERRING MATTER TO FRESNO COUNTY SUPERIOR COURT** on the  
17 interested parties in this action as follows:

18 **SEE ATTACHED SERVICE LIST**

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SERVICE LIST

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