

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 10, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Rolando T. Acosta
Paul G. Feinman
Barbara R. Kapnick
Troy K. Webber, Justices.

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The Nonhuman Rights Project, Inc.,
on behalf of Kiko,
Petitioner-Appellant,

-against-

M-4175A
Index No. 150149/16

Carmen Presti, et al.,
Respondents-Respondents.
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A motion having been made by petitioner-appellant to this Court to appeal, as of right, from a memorandum decision and order, hereby deemed a judgment under CPLR 7011, of Supreme Court, New York County, entered on or about January 29, 2016, in which Supreme Court declined to sign an Order to Show Cause seeking the issue of a writ of habeas corpus,

And an order by a Justice of this Court, having been entered on July 28, 2016, denying petitioner-appellant's motion to appeal as of right from the aforesaid January 29, 2016 judgment,

And petitioner-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals from the aforesaid order of a Justice of this Court, entered on July 28, 2016,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that that branch of the motion which seeks reargument is granted, and upon reargument, the order of this Court, entered October 25, 2016 (M-4175), is hereby recalled and vacated, and the motion brought by petitioner-appellant for leave to appeal, as of right, from the January 29, 2016 judgment of Supreme Court refusing an order to show cause (CPLR 7011), is granted.

ENTER:



CLERK