COURT OF APPEALS OF THE STATE OF NEW YORK

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In the Matter of a Proceeding under Article 70 of the CPLR

for a Writ of Habeas Corpus,

Index Nos. 162358/15

(New York County); 150149/16 (New York County)

**Affirmation of Mary Jean Mezzina, Esq. in Support of Motion to Submit Amicus Curiae Brief of Philosophers in Support of Petitioner-Appellant**

THE NONHUMAN RIGHTS PROJECT, INC., on

behalf of TOMMY,

 Petitioner-Appellant,

 -against-

PATRICK C. LAVERY, individually and as an officer ofCircle L Trailer Sales, Inc., DIANE LAVERY, and

CIRCLE L TRAILER SALES, INC.,

 Respondents-Respondents,

THE NONHUMAN RIGHTS PROJECT, INC., on

behalf of KIKO,

 Petitioner-Appellant,

-against-

CARMEN PRESTI, individually and as an officer

and director of The Primate Sanctuary, Inc.,

CHRISTIE E. PRESTI, individually and as an officer

and director of The Primate Sanctuary, Inc., and

THE PRIMATE SANCTUARY, INC.,

 Respondents-Respondents.

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 Mary Jean Mezzina, Esq. hereby affirms under penalty of perjury:

1. I am an attorney duly admitted to practice in the courts of the State of New York and I represent the below-named 15 philosophers and scholars (hereinafter “Authors”) with respect to their motion to submit the attached *Amicus Curiae* brief in support of the Petitioner-Appellant Nonhuman Rights Project, Inc. in the above-captioned proceedings in the New York State Supreme Court, New York County (“Supreme Court, New York County”), the appeal taken from those proceedings, and the Motion of Petitioner-Appellant for Permission to Appeal to the Court of Appeals presently pending before this Court. This motion and the attached proposed *amicus curiae* brief are filed pursuant to 22 NYCRR § 500.23(a)(3).
2. The Authors are philosophers and scholars with expertise in animal ethics, animal political theory, the philosophy of animal cognition and behavior, and the philosophy of biology. As evidenced herein, they are qualified to inform the Court of issues that are relevant to the instant case, in particular issues that would otherwise likely escape the attention of the Court.
3. Kristin Andrews is York Research Chair in Animal Minds and Associate Professor of Philosophy at York University. She received her Philosophy BA from Antioch College in 1992, her Philosophy MA from Western Michigan University in 1995, and her PhD in Philosophy from the University of Minnesota in 2000. She is the author of two books: *The Animal Mind: An Introduction to the Philosophy of Animal Cognition* (Routledge, 2015) and *Do Apes Read Minds? Toward a New Folk Psychology* (MIT Press, 2012) and co-editor of *The Routledge Handbook of the Philosophy of Animal Minds* (Routledge, 2017).
4. Gary L. Comstock is professor of philosophy at North Carolina State University where he conducts research on ethical questions in the biological sciences. Dr. Comstock received his undergraduate degree from Wheaton College and his M.A. and Ph.D. degrees from the University of Chicago. He teaches courses in moral philosophy, taking up subjects to include animal ethics and human medical ethics. He is co-editor of *The Moral Rights of Animals* (Lexington Press, 2016) and discusses the use of animals in research in his books, *Research Ethics: A Philosophical Guide to the Responsible Conduct of Research* (Cambridge University Press, 2013), and *Vexing Nature? On the Ethical Case Against Agricultural Biotechnology* (Kluwer, 2000). He has written on ethical questions surrounding the study of animal behavior and neuroanatomy, the genetic modification of farm animals, the permissibility of hunting, and animal metacognition. Recent papers take up legal questions concerning the intrinsic value of companion animals and the merits of the philosophical argument for animal personhood from overlapping species. Comstock was ASC Fellow of the National Humanities Center and edited *Life Science Ethics* (2002, 2010), *Is There a Moral Obligation to Save the Family Farm?* (1987), and *Religious Autobiographies* (1994, 2003). He serves on the board of the Culture and Animals Foundation.
5. G. K. D. Crozier is a professor in the Department of Philosophy at Laurentian University, and a Canada Research Chair of Environment, Culture and Values. She received her B.A. (Hons.) from McMaster University, her M.A. from the University of Guelph, and her Ph.D. from the University of Western Ontario. Prior to joining Laurentian University in 2011, she undertook a Postdoctoral Fellowship in bioethics in the Novel Tech Ethics research group at Dalhousie University and held a tenure-track position in philosophy at Loyola University in Chicago. Specializing in the philosophy of the life sciences, including bioethics and the philosophy of biology, Dr. Crozier’s manuscripts have been published in top peer-reviewed journals including the *British Journal for the Philosophy of Science*, the *Kennedy Institute of Ethics Journal*, and the *Hastings Centre Report*. She has also contributed chapters to edited volumes published by prestigious presses, including Cambridge University Press, Springer, and Routledge. Her manuscripts appear in science journals such as *Evolutionary Applications* and the *American Association for the Advancement of Artificial Intelligence*, and she been awarded 2.98 million dollars in awards and grants as Principle Investigator or Co-Investigator. Dr. Crozier is a co-founding member of the Centre for Evolutionary Ecology and Ethical Conservation – a multi-disciplinary research center dedicated to theoretical and applied challenges of biodiversity conservation and human-animal relations. Her work involves collaborations with Canada’s Accredited Zoos and Aquariums, the Association of Zoos and Aquariums, the Canadian Council on Animal Care, and the Canadian Society for Ecology and Evolution.
6. Sue Donaldson is a research associate in the Department of Philosophy at Queen’s University in Kingston, Canada, where she is co-convener of the Animals in Philosophy, Politics, Law and Ethics (APPLE) research group. Her expertise lies at the intersection of political theory and human-animal relations, with particular interest in questions concerning animal rights, multispecies polities, and the praxis of intentional communities. She is the co-author, with Will Kymlicka, of *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011), and related publications in leading journals (such as the *Oxford Journal of Legal Studies*) and edited collections (such as the *Oxford Handbook of Animal Studies*). Her publications, in addition to more than 20 articles in academic journals and edited collections, include works of fiction, animal advocacy, and general interest. She holds a bachelor’s degree in English (Queen’s University), and education (University of Toronto) and an MA in applied language studies (Carleton University).
7. Andrew Fenton is an assistant professor in the Department of Philosophy at Dalhousie University. Dr. Fenton received his B.A. (Hons.) in Philosophy and Comparative Religion from Acadia University, his M.A. in Philosophy from Dalhousie University, and his Ph.D. in Philosophy from the University of Calgary. He has been a Postdoctoral Fellow in the Novel Tech Ethics research group at Dalhousie University and is now a team member. Dr. Fenton also coordinates the interdisciplinary and transinstitutional Halifax Animal Studies Group in Halifax, Nova Scotia. He primarily teaches in applied ethics but also has taught courses in animal philosophy or animal ethics. He has authored or co-authored papers related to animal philosophy or animal ethics which appear in such journals as *Biology and Philosophy*, *Cambridge Quarterly of Healthcare Ethics*, *Journal of Animal Ethics*, and *The Monist* and has chapters on these topics in *The Routledge Handbook of Neuroethics* (co-edited by L. Syd M Johnson and Karen Rommelfanger, Routledge, 2018), *The Routledge Handbook of Philosophy of Animal Minds* (coedited by Kristin Andrews and Jacob Beck, Routledge, 2018) and the *Philosophy of Behavioral Biology* (co-edited by Kathryn Plaisance and Thomas Reydon, Springer, 2012). Dr. Fenton is also a co-applicant on the Social Sciences and Humanities Research Council Insight Development Grant, *“Chimpopolis: Science, Society, and the Philosophical Animal”* (along with Letitia Meynell (principle investigator) and Gillian Crozier (co-applicant)) and a collaborator on the Natural Sciences and Engineering Research Council CREATE grant, *“ReNewZoo: Training Conservation Professionals for the Zoo/Aquarium of the 21st Century”* (Albrecht Schulte-Hostedde (principle investigator) and various co-applicants).
8. Tyler M. John is a Ph.D. student in Philosophy at Rutgers University-New Brunswick. Previously, he was a postbaccalaureate research fellow at the National Institutes of Health, Department of Bioethics, and a student at Cedarville University, where he completed his B.A. in Philosophy. He has published on scarce resource allocation ethics and disability discrimination in *Economics and Philosophy*, and has contributed writing on animal ethics and political philosophy to two edited volumes. He is a Rutgers University Presidential Fellow and 2017 co-winner of The Center for Values and Social Policy Young Ethicist Prize.
9. L. Syd M Johnson is an Associate Professor of Philosophy and Bioethics, and the coordinator of the Bioethics Minor, in the Department of Humanities at Michigan Technological University. Dr. Johnson received a BA in Film from Bard College, and an MA and PhD in Philosophy from University at Albany, State University of New York. She was a Postdoctoral Fellow in Neuroethics with the Novel Tech Ethics research group at Dalhousie University. She is a member of the National Institutes of Health Multi-Council Working Group Neuroethics Division. Dr. Johnson co-founded and directs the Animal Bioethics Affinity Group of the American Society of Bioethics & Humanities. She teaches bioethics, research ethics, political philosophy, and ethical theory. She co-edited (with Karen Rommelfanger) *The Routledge Handbook of Neuroethics* (Routledge 2018) and is currently editing the forthcoming *Neuroethics and Nonhuman Animals* (Springer) with Andrew Fenton and Adam Shriver. With respect to the questions raised in this brief, Dr. Johnson has long taken an active interest in the moral status and treatment of nonhuman animals in research and in captivity. In 1987, she was a member of RI-ARC when that organization successfully lobbied the Cambridge, Massachusetts City Council to ban the Draize Eye-Irritancy Test and the LD-50 Acute Toxicity Test.
10. Robert C. Jones is Associate Professor in the Department of Philosophy at California State University, Chico. Dr. Jones holds a Ph.D. in Philosophy from Stanford University, an M.A. in Philosophy from California State University, Los Angeles, and a B.A. in Music Performance from California State University, Northridge. He has been a post-doctoral fellow at Stanford University, a visiting researcher for the Ethics in Society Project at Wesleyan University in Connecticut, a Summer Fellow at the Animals & Society Institute, and has served as the Executive Director of the Center for Applied and Professional Ethics at California State University, Chico. He has authored or co-authored papers related to animal cognition and animal ethics in journals such as *Biology & Philosophy*, *Animal Sentience*, *Contemporary Justice Review*, *Science and Engineering Ethics*, and *Philosophy in Review*, and has chapters on these topics in or forthcoming in *Neuroethics and Nonhuman Animals*, *The Routledge Companion to Environmental Ethics*, *New Critical Perspectives on Veganism*, *The Moral Complexities of Eating Meat*, and *Gesturing Toward Reality: Philosophy and David Foster Wallace*. Dr. Jones is a member of the Advisory Council of The Animal Museum, and a speaker with the Northern California Animal Advocacy Coalition. He has given over 40 talks on animal ethics, environmental ethics, veganism, and speciesism at colloquia and conferences around the world.
11. Will Kymlicka holds the Canada Research Chair in Political Philosophy at Queen’s University in Kingston, Canada. He has been a full-time tenured professor there since 1998. He received his doctorate in philosophy from the University of Oxford in 1987. He specializes in liberal democratic political theory, with an emphasis on issues of citizenship, human rights, minority rights and animal rights. He is the author of Contemporary Political Philosophy (Oxford University Press, 2002), and co-author with Sue Donaldson of *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011), as well as the author of over 200 articles in leading journals of philosophy, political science, and law.
12. Letitia Meynell is an associate professor at Dalhousie University in Canada. She was appointed as an limited term assistant professor in 2004, became tenure track in 2008 and was tenured and promoted to associate professor in 2011. She has a BA in Theatre from York University (1993), an MA in Philosophy from the University of Calgary (1998), and a PhD from the University of Western Ontario (2003), where her studies focused on philosophy of science, feminist philosophy, and aesthetics. Her research addresses questions of representation in the construction of scientific knowledge and the role of gender ideology in the scientific study of sex differences; she has published numerous journal articles and book chapters on these topics and co-edited collection of essays on related topics. She has taught a senior undergraduate course in philosophy of biology for philosophy and biology students for most of the last fourteen years and supervised graduate theses on, among other things, evolutionary psychology, the sexual politics of intelligent design, and the methodology of proteomics research. Currently, she has a project funded by the Social Sciences and Humanities Research Council of Canada called *Chimpopolis: Science, Society, and the Political Animal*. The research associated with this grant investigates the implications of the findings of current scientific research for our relationships with other animals, particularly chimpanzees, as well as addressing the ways in which this research is constrained and informed by current prejudices and tacit assumptions.
13. Nathan Nobis is an Associate Professor of Philosophy at Morehouse College, Atlanta. His Ph.D. in philosophy is from the University of Rochester, NY and his undergraduate degree is from Wheaton College, Illinois. He is the author of many articles and chapters on ethical issues concerning animals, and other topics in bioethics - including abortion, where questions of personhood often arise - and is the author of the introductory, open-access textbook *Animals & Ethics 101: Thinking Critically About Animal Rights*.
14. David M. Peña-Guzmán is assistant professor in the School of Humanities and Liberal Studies at San Francisco State University. Dr. Peña-Guzmán received his B.A. in Philosophy and Women’s Studies from the University of Nevada, Reno, and his M.A. and Ph.D. in Philosophy from Emory University. He has been a Postdoctoral Fellow in at the Centre for Evolutionary Ecology and Ethical Conservation at Laurentian University and at the Berman Institute of Bioethics at Johns Hopkins University. He teaches courses in the history of science, critical animal studies, and cultural studies. He has authored and co-authored a number of articles in such journals as *Animal Sentience*, *Hypatia*, *Foucault Studies*, *The Journal of French and Francophone Philosophy*, and the *International Journal of Feminist Approaches to Bioethics*. He has also published various book chapters in edited collections. Dr. Peña-Guzmán is a collaborator on the Social Sciences and Humanities Research Council Insight Development Grant, *“Chimpopolis: Science, Society, and the Philosophical Animal”* (along with Letitia Meynell [principle investigator] and Gillian Crozier [co-applicant]) and a collaborator on the Natural Sciences and Engineering Research Council CREATE grant, *“ReNewZoo: Training Conservation Professionals for the Zoo/Aquarium of the 21st century”* (Albrecht Schulte-Hostedde [principle investigator] and various co-applicants).)
15. James Rocha is an assistant professor of philosophy at California State University, Fresno. Dr. Rocha was previously associate professor of philosophy and philosophy section head at Louisiana State University. He obtained his B.A., M.A., and Ph.D. from the University of California, Los Angeles. Dr. Rocha works in the fields of ethics, political philosophy, and philosophy of law, where he has published numerous articles, including articles on Kantian respect for animals, the autonomy of pigs, and the unethical treatment of animals in sports, in journals such as *Social Theory and Practice*, *Ethics & the Environment*, and *Between the Species*.
16. Bernard E. Rollin is University Distinguished Professor, Professor of Philosophy, Professor of Animal Sciences, Professor of Biomedical Sciences, and University Bioethicist at Colorado State University. He earned his BA in philosophy and literature from the City College of New York, and earned his Ph.D. in philosophy from Columbia University. His work focuses on animal ethics, animal consciousness, animal pain, ethics of biotechnology, ethics of animal research, ethics and agriculture, history of modern philosophy, and theory of meaning. Rollin created the field of veterinary medical ethics and was part of the group that drafted the 1985 amendments to the Animal Welfare Act requiring control of pain and distress. Rollin served as a member of the Pew Commission on Industrial Farm Animal Production, and convinced Smithfield Farms to sow eliminate gestation crates. He has published 21 books on topics including philosophy of language, animal ethics, ethics of genetic engineering, animal research, and farm animal welfare. He has authored over 600 refereed papers and has lectured in 28 countries over 1500 times.
17. Jeff Sebo is Clinical Assistant Professor of Environmental Studies, Affiliated Professor of Bioethics, Medical Ethics, and Philosophy, and Director of the Animal Studies M.A. Program at New York University. He holds a Ph.D. in Philosophy from New York University and a B.A. in Philosophy and Sociology from Texas Christian University. He works primarily in moral, social, and political philosophy with an emphasis on bioethics, animal ethics, and environmental ethics. His book *Food, Animals, and the Environment* (with Christopher Schlottmann) is forthcoming from Routledge, and his book *Why Animals Matter for Climate Change* is forthcoming from Oxford University Press. In addition to his academic work, Jeff sits on the Board of Directors at Animal Charity Evaluators, the Board of Directors at Minding Animals International, and the Executive Committee at the Animals & Society Institute.
18. Adam Shriver is a Research Fellow at the Oxford Uehiro Centre for Applied Ethics and the Wellcome Centre for Ethics and Humanities at Oxford University, UK. He graduated from the Philosophy-Neuroscience-Psychology (PNP) program at Washington University in St. Louis and works at the intersection of cognitive science and philosophy. In particular, his research examines the relevance of the neuroscience of positive and negative emotions for ethical theory, the assessment of the mental capacities of individuals unable to communicate via language, and the ethics of genetic modification of animals. He has published in such journals as *Neuroethics*, *The Cambridge Quarterly of Healthcare Ethics*, *The American Journal of Bioethics*, *Philosophical Psychology*, and *Behavioral and Brain Science*.
19. Rebecca L. Walker is Associate Professor of Social Medicine, Adjunct Associate Professor of Philosophy, and Core Faculty in the Center for Bioethics at the University of North Carolina at Chapel Hill. She received a Ph.D. in Philosophy in 1998 from Stanford University (where she also received a BA in American Studies in 1992). Dr. Walker was a Greenwall Foundation supported post-doctoral fellow in bioethics and health policy at Johns Hopkins University from 1999-2001. Before coming to UNC in 2003, Dr. Walker held positions at Arizona State University and at the University of Michigan. Her work related to animal ethics has been focused on biomedical research uses of nonhuman animals and has explored such issues as moral status, uses of primates in biodefense research, researcher professional ethics, and practical virtue ethics. Her work on nonhuman animal research ethics has appeared in journals such as: *Kennedy Institute of Ethics Journal*, *Journal of Theoretical Medicine and Bioethics*, *Hastings Center Report* and *Nature Biotechnology* as well as in book chapters.
20. The above-named authors are familiar with the issues involved in the above-captioned cases and are qualified and competent in the matters therein.
21. The arguments they present in the Proposed Brief will provide context to the Court in examining the complex concepts of legal personhood and rights that are raised in the instant appeal.
22. I submit this affirmation in support of their motion for leave to file the accompanying Brief as *amicus curiae*.
23. Pursuant to 22 NYCRR § 500.23(a)(4), the proposed *Amicus Curiae* brief does not present issues not raised before the courts below. The *Amicus* (i) the parties are not capable of a full and adequate presentation and that movant could remedy this deficiency; (ii) movant could identify law or arguments that might otherwise escape the Court's consideration; or (iii) the proposed amicus curiae brief otherwise would be of assistance to the Court.
24. In submitting this brief, the authors urge this Court to consistently apply the legal and philosophical principles that support the personhood and rights of Kiko and Tommy, and grant the writ of habeas corpus.
25. Neither I nor any of the above-named authors of the Brief have received compensation for this proposed Brief and do not work for, consult, own shares in or presently receive funding from any corporation or organization that would benefit from this Brief.
26. Respondents may file an original and one copy of papers in opposition to the motion, with proof of service of one copy on each other party.

WHEREFORE, I respectfully request that this Court enter an order (i) granting the above-named philosophers’ motion for leave to file a Brief as *amicus curiae*; (ii) accepting the Brief that has been filed and served along with the motion; (iii) granting such other and further relief as this Court deems just and proper.

Dated: February 20, 2018

Respectfully submitted,

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