

At a Term of the Supreme Court, of the
State of New York, held in and for the
County of Orleans at the Orleans County
Courthouse, 1 South Main Street, in the
Town of Albion, New York, on the 5th of
February, 2019.

PRESENT: HON. TRACEY A. BANNISTER, J.S.C.
Justice Presiding

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORLEANS

In the Matter of a Proceeding under Article 70 of the
CPLR for a Writ of Habeas Corpus and Order to Show
Cause,

NOTICE OF ENTRY

Index No. 18-45164

THE NONHUMAN RIGHTS PROJECT, INC., on
behalf of HAPPY,

Petitioner,

v.

JAMES J. BREHENY, in his official capacity as
Executive Vice President and General Director of Zoos
and Aquariums of the Wildlife Conservation Society and
Director of the Bronx Zoo, and WILDLIFE
CONSERVATION SOCIETY,

Respondents.

PLEASE TAKE NOTICE that an Order, a copy of which is attached,
was granted on February 21, 2019, and entered in the Office of the Clerk of the
County of Orleans on February 26, 2019.

Dated: Buffalo, New York
February 28, 2019

PHILLIPS LYTLE LLP

By: 

Joanna J. Chen

Attorneys for Respondents

James J. Breheny and

Wildlife Conservation Society

One Canalside

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Doc #01-3351542.1

At a Term of the Supreme Court, of the State of New York, held in and for the County of Orleans at the Orleans County Courthouse, 1 South Main Street, in the Town of Albion, New York, on the 5th of February, 2019.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORLEANS

In the Matter of a Proceeding under Article 70 of the CPLR for a Writ of Habeas Corpus and Order to Show Cause,

~~PROPOSED~~ TAB
ORDER

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behalf of HAPPY,

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v.

JAMES J. BREHENY, in his official capacity as
Executive Vice President and General Director of Zoos
and Aquariums of the Wildlife Conservation Society and
Director of the Bronx Zoo, and WILDLIFE
CONSERVATION SOCIETY,

Respondents.

Petitioner having moved by order to show cause for a stay of the Court's Order entered January 18, 2019 ("January 18, 2019 Order") pursuant to CPLR 2201 and CPLR 2214(d); Petitioner also having moved for a motion for reargument pursuant to CPLR 2221(a) and (d); and Petitioner also having moved for permission to appeal the January 18, 2019 Order pursuant to CPLR 5701(c), and a stay of all proceedings pending

before the Court pending any appeal taken from the January 18, 2019 Order pursuant to CPLR 2201 and 5519(c); and

Respondents having opposed Petitioner's motions to stay under CPLR 2201 and 2214(d), for leave to reargue under CPLR 2221, for permission to appeal under CPLR 5701(c), and for a stay under CPLR 2201 and 5519(c);

NOW, upon reading the order to show cause for a stay, granted January 14, 2019, the affirmation of Elizabeth Stein, Esq., dated January 8, 2019, with exhibits, and Petitioner's supporting memorandum of law, dated January 8, 2019, all filed in support of support of Petitioner's motion to stay the transfer of this proceeding; and

Petitioner's notice of motion for leave to reargue, dated January 23, 2019, the affirmation of Elizabeth Stein, Esq., dated January 23, 2019, with exhibits, Petitioner's supporting memorandum of law, dated January 23, 2019, all filed in support of support of Petitioner's motion for leave to reargue; and

Petitioner's notice of motion for a stay pending appeal, dated January 24, 2019, the affirmation of Elizabeth Stein, dated January 24, 2019, and Petitioner's supporting memorandum of law, dated January 24, 2019, all filed in support of Petitioner's motion for a stay pending appeal; and

Petitioner's notice of motion for permission to appeal, dated January 24, 2019, the affirmation of Elizabeth Stein, Esq., dated January 24, 2019, and Petitioner's supporting memorandum of law, dated January 24, 2019, all filed in support of Petitioner's motion for permission to appeal to the Appellate Division, Fourth Department; and

Respondents' memorandum of law, dated January 25, 2019, and the affidavit of Joanna J. Chen, Esq., sworn to January 25, 2019, with exhibits, both filed in opposition to Petitioner's motions for leave to reargue and for a stay; and

Respondents' memorandum of law, dated January 30, 2019, filed in opposition to Petitioner's motions for permission to appeal and for a stay pending appeal; and the reply affirmation of Elizabeth Stein, dated January 30, 2019, and Petitioner's reply memorandum of law, dated January 30, 2019, all filed in support of Petitioner's motion to reargue; and having heard Petitioner The NonHuman Rights Project (Steven M. Wise, Esq., and Elizabeth Stein, Esq., of counsel) and Phillips Lytle LLP (Kenneth A. Manning, Esq., and Joanna J. Chen, Esq., of counsel), attorneys for Respondents, and after due deliberation thereon, and upon the attached transcript of the decision of this Court; it is hereby:

ORDERED that Petitioner's motion for leave to reargue is DENIED in its entirety; and it is further

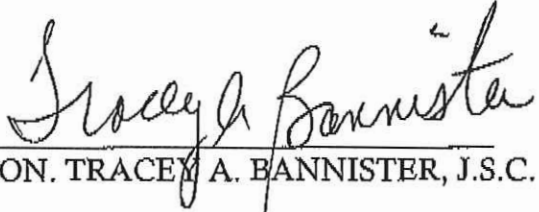
ORDERED that Petitioner's motion for permission to appeal is DENIED in its entirety; and it is further

ORDERED that Petitioner's motion for a stay pending reargument of the January 18, 2019 Order is DENIED as moot; and it is further

ORDERED that Petitioners' motion for a stay pending appeal is DENIED as moot; and it is further

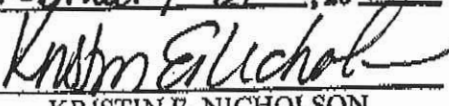
ORDERED that enforcement of the January 18, 2019 Order is hereby stayed for a period of not more than sixty (60) days from entry of this Order to permit Petitioner to move a Justice of the Appellate Division, Fourth Department for permission to appeal the January 18, 2019 Order.

Dated: Buffalo, New York
February 21, 2019


HON. TRACEY A. BANNISTER, J.S.C.

ENTER:

Doc #01-3169290

GRANTED
February 21, 2019

KRISTIN E. NICHOLSON
Chief Clerk

Rec'd and Entered
ORLEANS CO CLERK W/1
2019 FEB 26 PM 3:47
