

## S281614

August 29, 2023

The Honorable Jorge E. Navarrete  
Clerk and Executive Officer  
Supreme Court of California  
350 McAllister Street  
San Francisco, California 94102

Re: Letter of Amicus Curiae, Professor David Favre, Supporting Verified Petition for a Common Law Writ of Habeas Corpus and Issuance of an Order to Show Cause in *In re Nonhuman Rights Project, Inc. on behalf of Amahle, Nolwazi, and Mabu On Habeas Corpus* (No. S281614)

Dear Mr. Navarrete:

Pursuant to California Rules of Court, rule 8.500(g), Professor David Favre submits this letter in support of the Verified Petition for a Common Law Writ of Habeas Corpus in the above-captioned case. Please transmit this letter to the justices for their consideration.

### INTEREST OF AMICUS CURIAE

Professor Favre is the Nancy Heathcote Professor of Property and Animal Law at Michigan State College of Law and the Editor-in-Chief of the Animal Legal & Historical Web Center. He also successfully co-authored a Resolution adopted by the American Bar Association's ("ABA") House of Delegates urging all nations to "negotiate an international convention for the protection of animals that establishes standards for the proper care and treatment of all animals to protect public health, the environment, and animal wellbeing," with the caveat that the U.S. State Department initiate and take a leadership role in the negotiations.<sup>1</sup> That Resolution has since become an international draft treaty for animal welfare and pandemic prevention entitled, "The Convention on Animal Protection."<sup>2</sup>

Professor Favre has special expertise in the issues presented by this case and the significance these issues hold for the broader development of animal law as an academic discipline and legal practice area. Professor Favre has a special interest in guiding the evolution of his field of law and in assisting the Court in grappling with the foundational jurisprudential issues that this case raises. Professor Favre has an interest in the California courts giving full consideration to the merits of Petitioner Nonhuman Rights Project, Inc.'s (hereafter NhRP) case which concerns an emerging area of animal law.

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<sup>1</sup> The Convention on Animal Protection for Public Health, Animal Well-Being, and the Environment, <https://shorturl.at/gwyIR>.

<sup>2</sup> *Id.*

Professor Favre believes that the NhRP has made a prima facie showing that Amahle, Nolwazi, and Mabu—three elephants imprisoned at the Fresno Chaffee Zoo—are entitled to habeas corpus relief. Accordingly, he respectfully urges the Court to issue an order to show cause in this matter.

### **ARGUMENT**

First, an order to show cause (hereafter OSC) is required as the particular elephants in question are in need of a better life. Thus, when a California court finds that factual allegations, taken as true, establish a prima facie case for relief, that court must issue an OSC; such is the case here. Given the biological and psychological needs of these great animals, a good and supportive life in a zoo is impossible. The OSC is necessary so that the NhRP can present the information about these specific elephants as to why their needs support their transfer to an elephant sanctuary.

Second, this case presents the Court with the opportunity to address one of the most significant legal questions of this Century. Will our legal system finally acknowledge that at least some animals deserve our jurisprudential acknowledgment that they are beings visible before the law? They are complex beings under the care of humans, and we have a moral duty that arises out of our dominion and control over them. If that moral duty is not being carried out, then our legal system should allow them to step forward and bring the shortcomings of the zoo environment to court, such that, an adequate remedy can be found for the elephants' care. As they do not have the capacity to understand how to file such an action, the NhRP can be their voice before the courts, which is in line with the historical and current use of habeas corpus.

### **CONCLUSION**

Professor Favre believes the NhRP has made a prima facie case for habeas corpus relief and respectfully urges this Court to issue an OSC.

Respectfully submitted,

*/s/ David Favre*

Professor David Favre  
Editor-in-Chief of the Animal Legal & Historical Web Center

