

Claim of Appeal & Related Documents

The following documents are attached:

- 1) Claim of Appeal
- 2) Judge Mary Barglind's December 12, 2023 Order
- 3) Jurisdictional Checklist
- 4) Registrar of Actions
- 5) Docketing Statement (plus attachment)
- 6) Proof of Service

STATE OF MICHIGAN
IN THE COURT OF APPEALS

NONHUMAN RIGHTS PROJECT, INC., on behalf of Prisoner A (aka Louie), Prisoner B, Prisoner C, Prisoner D, Prisoner E, Prisoner F, and Prisoner G (“DeYoung Prisoners”), Petitioner-Appellant.	
v	No. _____ 41st Circuit Court LC No. 23-17621-AH
DEYOUNG FAMILY ZOO, LLC and HAROLD L. DEYOUNG, Respondents-Appellees.	

CLAIM OF APPEAL

Nonhuman Rights Project, Inc., on behalf of Prisoner A (aka Louie), Prisoner B, Prisoner C, Prisoner D, Prisoner E, Prisoner F, and Prisoner G, claims an appeal from the order entered on December 12, 2023, in the 41st Judicial Circuit by Judge Mary B. Barglind.

Date: 12/18/2023

/s/ Ginny Mikita, P45305
Mikita Kruse Law Center
6411 Bella Vista Drive NE, Suite 1
Rockford MI 49341
616.866.1218
ginnymikita64@gmail.com

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STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT 41st	EXPARTE DENIAL OF PROPOSED WRIT OF HABEAS CORPUS ORDER TO SHOW CAUSE ("OSC")	CASE NO. and JUDGE Mary B. Barglund 23-17621-Att
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Court address: Menominee County Courthouse, 839 10th Ave, Menominee, MI 49858
 Court telephone no.: (906) 863-9968

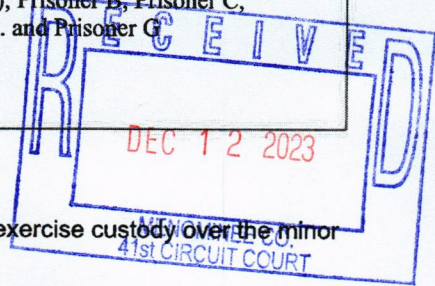
IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: Nonhuman Rights Project, Inc, et al

TO: DeYoung Family Zoo, LLC and Harold L. DeYoung, the agency or person having custody of

the seven chimpanzees prisoners	NA	NA
Name	I.D. no.	Date of birth

To bring prisoner to court in the case of:
People of
v

To inquire into detention/custody of:
Prisoner A (aka Louie), Prisoner B, Prisoner C,
Prisoner D, Prisoner E. and Prisoner G



IT IS ORDERED:

- 1. Answer this writ, stating the authority under which you restrain the prisoner. exercise custody over the minor child. File your answer with the court judge by _____ Date _____
- 2. Deliver the person named in this writ into the custody of _____ Name/Title/Agency
for: the prosecution of _____, felony. misdemeanor.
Charge and MCL citation or PACC code _____
 Specify purpose (witness testimony, etc.). _____

Immediately after the prisoner completes his/her appearance, the prisoner shall be returned to your custody.

- 3. Bring the person named in this writ before _____ Name of Judge/Referee/Magistrate
at _____, on _____ at _____
Location of court Date Time
Bring this writ with you.
- 4. Produce the prisoner via compatible two-way interactive video technology for the purpose indicated above on
_____ at _____
Date Time

5. Fees are allowed in the amount of \$ _____

x6. It is ordered that this Proposed Order to Show Cause on Plaintiff's Complaint for Writ of Habeas Corpus is denied in that the alleged "prisoner" chimpanzees are not persons as required by MCR 3.303 and Plaintiff is not entitled to the writ. (MCL600.4316)
 Judge signature and date: Mary B. Barglund 12-12-23

Distribute form to:
Court
Custodial officer
Transport officer
Prosecutor
Return

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PROOF OF SERVICE

STATE OF MICHIGAN, COUNTY OF _____

I certify that on _____ at _____, I personally served the original writ of habeas corpus on _____

Date _____

Signature _____

Required only under MCR 3.303

ANSWER

STATE OF MICHIGAN, COUNTY OF _____

I, _____, state:
Name

- 1. I do not have _____ under my custody, power, or restraint.
Person named in writ
- 2. On _____ by authority of _____, _____ was _____ (exhibits attached).
Date released. transferred to Location
- 3. I have _____ under my custody, power, or restraint under a
Person named in writ
 - warrant charging the prisoner with the offense of _____
 - commitment
 - other: _____

issued by _____, A copy of the document is attached and the original will be produced at the hearing.
Name

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date _____

Signature _____

Title _____

When required by MCR 3.303(L)(2).

NOTICE TO PROSECUTING ATTORNEY

TO: The prosecuting attorney of _____ County

You are notified that the annexed writ of habeas corpus has been issued. _____ is believed to have custody of the prisoner.
Name/Title/Agency

Date _____

Prisoner Attorney/Bar no.

Address _____

City, state, zip _____ Telephone no. _____

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Michigan Court of Appeals Jurisdictional Checklist

Lower Court/Tribunal: 41st Judicial Circuit

Lower Court Case No.: 23-17621-AH

Case Name: Nonhuman Rights Project, Inc. v. DeYoung Family Zoo, LLC and Harold L. DeYoung

Jurisdiction

INSTRUCTIONS: For a **civil** claim of appeal, please complete the following statements.

[SELECT ONE] An **appeal of right** may be filed because the order is: MCR 7.203(A)

- A final order of the circuit court under MCR 7.202(6). Specify subsection: MCR 7.202(6)(a)(1)
- A probate court order that falls within MCR 5.801(A). Specify subsection: _____
- Appealable as of right by law or court rule. Specify law or rule: _____

[SELECT ONE] This claim of appeal is **timely** because it is being filed: MCR 7.204(A)

- Within 21 days from entry of the order appealed from (*as identified above*).
- Within 21 days of an order deciding a motion for new trial, rehearing, reconsideration, or other relief from the order appealed, *and the postjudgment motion was filed within 21 days of the order appealed from.*
- Other: _____

Filing Requirements

INSTRUCTIONS: Please complete the checklist and file with your claim of appeal.

Failure to file all required documents and requisite fees may result in rejection of your claim of appeal. MCR 7.201(B)(2)

- A **signed** claim of appeal. The caption must list all of the parties in each lower court case appealed. MCR 7.204(B)(1) & (D)
- A copy of the order you are appealing (*as identified in Jurisdiction section*). MCR 7.204(C)(1)
- An official **current** register of actions from the lower court or tribunal showing entry of the order appealed. MCR 7.204(C)(5)
- The filing fee or exception (*example: motion to waive fees*). MCR 7.202(3), MCR 7.204(B)(2)
- Evidence of the transcript (Select one): MCR 7.204(C)(2)
 - The complete transcript has been ordered. MCR 7.210(B)(1)(a)
 - No transcript will be filed. MCR 7.204(C)(2)
 - The transcript has already been filed. MCR 7.210(B)(1)(a)
 - Other: _____ MCR 7.210(B)(1)(b)-(e)
- All parties to the case (*including non-appellees*) are being **e-served through MiFILE**. Service by mail is only acceptable if (1) appellant is a self-represented party, or (2) the receiving party is not registered with **MiFILE**. MCR 7.204(C)(3), MCR 1.109(G)(6)(a)(ii), IOP 7.204(C)(3)

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Preparer's Signature: /s/ Ginny Mikita

Date: 12/18/2023

Caseload Dsp: DS

Crt: C 41 55 Jur: BARGLIND Ref: CLOSE Pub
Case: 2023 0000017621 AH NONHUMAN RIGHTS PROJ V DEYOUNG FAMILY ZOO,
Atty: MIKITA - PRO PER Worker:
File: 12/07/2023 Dispose: 12/12/2023 Reopen: Close: 12/12/2023
X-Reference: Microfilm Number:

P 001 NONHUMAN RIGHTS PROJECT,,
Gender:

ATTORNEY: GINNY K. MIKITA
P 45305 Ph#: 616/866-1218
OTHER: MONICA MILLER
OTHER: ELIZABETH STEIN

D 001 DEYOUNG FAMILY ZOO, LLC
N5406 COUNTY ROAD 577
WALLACE, MI 49893
Gender:

DISPOSED: 12/12/2023 DENIED

D 002 HAROLD DEYOUNG
N5406 COUNTY ROAD 577
WALLACE, MI 49893
Gender:

DISPOSED: 12/12/2023 DENIED

Financial Order History

Ct	Assessment Description	Payer	J/S	Order Amount	Paid Amount	F Q	Balance
	ELECTRONIC FILING FEE	P 001	N	25.00	25.00		
	SUMMONS AND COMPLAINT	P 001	N	150.00	150.00		
	Totals:			175.00	175.00		.00

Events, Actions, and Judgments

NUM	Date	Jurist	Chg/Party	Clerk
1	12/07/2023		P 001	DB
	COMPLAINT FOR WRIT OF HABEAS CORPUS SUMMONS AND COMPLAINT 150.00 ELECTRONIC FILING FEE 25.00			
2	12/12/2023		D 001	DB
	EX PARTE ORDER DISP: DENIED DENIAL OF PROPOSED ORDER TO SHOW CAUSE (signed 12/12/23) copy to Spencer Lo-Nonhuman rights org			
3	12/12/2023		D 002	DB
	EX PARTE ORDER DISP: DENIED			
4	12/12/2023			DB

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Caseload Dsp: DS

Crt: C 41 55 Jur: BARGLIND
Case: 2023 0000017621 AH

Ref:
NONHUMAN RIGHTS PROJ V DEYOUNG FAMILY ZOO,

CLOSE Pub

CLOSE CASE

**** END OF SUMMARY ****

*** END OF REPORT ***

Michigan Court of Appeals

DOCKETING STATEMENT

Case No:
Circuit: 23-17621-AH
Court of Appeals:

Please read before completing form.

- MCR 7.204(H) and 7.205(E)(3) require an **appellant** in a civil action to complete and file a docketing statement within 28 days after the claim of appeal is filed or the application for leave to appeal is granted. Failure to timely file this document may lead to dismissal of the appeal. An appellee may respond by filing a separate docketing statement.
- This document will be used to screen the appeal for suitability and eligibility for the settlement conference program, and will be used to help resolve jurisdictional and transcript issues. It is important that you complete this form accurately and legibly.
- The issues identified in the docketing statement do not limit appellant's presentation of the issues in appellant's brief. Omission of an issue in the docketing statement will not provide a basis for a motion to strike appellant's brief.

1. Case Name:

Nonhuman Rights Project, Inc. Appellant
 Appellee

Name of first Plaintiff

Address: 611 Pennsylvania Avenue SE #345
Washington, DC 20003
Telephone No: (888) 255-2612

Attorney Name: Ginny Mikita Bar No: P4530
6411 Bella Vista Drive NE, Suite 1
Address: Rockford MI 49341
Telephone No: (616) 866-1218

v

DeYoung Family Zoo, LLC et al. Appellant
 Appellee

Name of first Defendant

Address: N5406 County Road 577,
Wallace, MI 49893
Telephone No: (906) 788-4093

Attorney Name: None Bar No: _____
Address:
Telephone No:

2. A bankruptcy or other proceeding has been filed which affects this Court's jurisdiction over this appeal.

Identify and explain. NA

3. There are pending or prior appeals in the Court of Appeals or Supreme Court which arose out of the same transaction, lower court case, or between the same parties.

Specify case name, lower court number, appellate court number(s), and citation, if available.
None.

4. I am aware of the following pending appeals in the Court of Appeals or Supreme Court raising the same or closely related issues.

Specify case name, lower court number, appellate court number(s), and citation, if available.
None.

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5. Identify **all** the lower court hearings.

Type of proceeding (i.e. motion, trial, etc.) None	Date(s) Occurred	Court Reporter

6. **Nature of case:**

a. If the lower court case number provided on page 1 does not include a suffix, please specify the circuit court case code (i.e. NI, CK, etc): _____.

b. Identify the procedural nature of the case being appealed.

- arbitration bench trial post-judgment action declaratory judgment
 interlocutory matter jury trial summary disposition
 administrative proceeding (specify agency) _____
 other (i.e. default judgment) Order dismissing a complaint for a writ of habeas corpus

7. Briefly describe the nature of the action and the result in the trial court. Conclusory statements such as "the judgment of the trial court is not supported by law" are unacceptable. Attach additional pages as needed.
See attachment.

8. Briefly state the issues to be raised in this appeal. Attach additional pages as needed.
See attachment.

9. The amount and terms of the judgment appealed are:
N/A

10. Postjudgment settlement negotiations. (Check all boxes that apply.)

- Postjudgment settlement negotiations have been conducted or are scheduled.
 Settlement is unlikely.
 Other _____

12/18/23

Date

/s/ Ginny Mikita

Signature

Provide the Proof of Service on a separate form.

Attachment to Docketing Statement

7. Brief statement of the nature of the action and result in the trial court

On December 7, 2023, the Nonhuman Rights Project, Inc. (“NhRP”) filed a Complaint for a Writ of Habeas Corpus (“Complaint”) on behalf of seven chimpanzees imprisoned at the DeYoung Family Zoo, alleging that they are being illegally imprisoned at the zoo and thus entitled to release to a chimpanzee sanctuary accredited by the Global Federation of Animal Sanctuaries. The chimpanzees are identified in the Complaint as Prisoner A (aka Louie), Prisoner B, Prisoner C, Prisoner D, Prisoner E, Prisoner F, and Prisoner G (“DeYoung Prisoners”). NhRP sought the issuance of an order to show cause pursuant to MCL 600.4316 and MCR 3.303 (D), which would require DeYoung Family Zoo, LLC et al. to file an answer justifying their imprisonment of the DeYoung Prisoners.

Shortly after the filing of the Complaint, NhRP submitted a Proposed Order to Show Cause. On December 12, 2023, the trial court dismissed the Complaint by entering an order that states: “It is ordered that this Proposed Order to Show Cause on Plaintiff’s Complaint for Writ of Habeas Corpus is denied in that the alleged ‘prisoner’ chimpanzees are not persons as required by MCR 3.303 and Plaintiff is not entitled to the writ. (MCL600.4316).”

NhRP’s appeal is timely filed and within the jurisdiction of this Court, since the trial court’s December 12, 2023 order is a “final order” within the meaning of MCR 7.202(6)(a)(1), and the Claim of Appeal, and related documents, have been filed by January 2, 2024.

8. Brief statement of the issues to be raised on appeal

Chimpanzees are autonomous, cognitively complex beings whose interest in exercising their autonomy is as fundamental to them as it is to us, and they suffer physically and psychologically when placed in an environment that does not allow them to exercise their autonomy and engage in species-specific behavior. Based on the robust scientific evidence, including affidavits and declarations submitted by six of the world’s most renowned experts on chimpanzee cognition and behavior, the DeYoung Family Zoo is an unacceptable place for such cognitively complex beings.

Accordingly, did the trial court err in concluding that the DeYoung Prisoners are not “persons” for purposes of habeas corpus? If so, did the trial court err in refusing to issue an order to show cause pursuant to MCL 600.4316 and MCR 3.303 (D), which would have required DeYoung Family Zoo, LLC et al. to file an answer justifying their imprisonment of the DeYoung Prisoners?

STATE OF MICHIGAN
IN THE COURT OF APPEALS

NONHUMAN RIGHTS PROJECT, INC., on behalf of Prisoner A (aka Louie), Prisoner B, Prisoner C, Prisoner D, Prisoner E, Prisoner F, and Prisoner G (“DeYoung Prisoners”), Petitioner-Appellant.	
v	No. _____ 41st Circuit Court LC No. 23-17621-AH
DEYOUNG FAMILY ZOO, LLC and HAROLD L. DEYOUNG, Respondents-Appellees.	

PROOF OF SERVICE

I certify that a copy of (1) the Claim of Appeal, (2) Judge Barglind’s December 12, 2023 Order, (3) Jurisdictional Checklist, (4) Register of Actions, and (5) Docketing Statement, along with this proof of service, were served by first-class mail to:

DeYoung Family Zoo, LLC and Harold L. DeYoung
N5406 County Road 577,
Wallace, MI 49893

Date: 01/02/2024

/s/ Ginny Mikita, P45305
Mikita Kruse Law Center
6411 Bella Vista Drive NE, Suite 1
Rockford MI 49341
(616) 866-1218
ginnymikita64@gmail.com

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