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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

NONHUMAN RIGHTS PROJECT, INC.,
on behalf of BILLY and TINA, individuals,

Petitioner,

v.

The CITY OF LOS ANGELES, and
DENISE M. VERRET in her official
capacity as Los Angeles Zoo and Botanical
Gardens Chief Executive Officer & Zoo
Director,

Respondents.

Case No. 25CJHC00060-01

**DECLARATION OF
CHRISTOPHER BERRY IN
SUPPORT OF PETITIONER'S
MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL PETITION**

Judge: Hon. William C. Ryan
Department: Writs Center 1

1 **DECLARATION OF CHRISTOPHER BERRY**

2 I, Christopher Berry, declare:

3 1. I am an attorney licensed to practice in the State of California and
4 am the Executive Director of the Nonhuman Rights Project, Inc., a nonprofit
5 organization that filed the Petition on behalf of Billy and Tina. I submit this
6 declaration in support of NhRP's motion for leave to file its proposed Supplement
7 to Verified Petition for Common Law Writ of Habeas Corpus (hereafter
8 Supplemental Petition). The facts set forth are known to me from my personal
9 knowledge and, if called upon as a witness, I could competently testify thereto
10 under oath.

11 2. On May 20, 2025, NhRP filed its Verified Petition for Common
12 Law Writ of Habeas Corpus (hereafter Petition) on behalf of Billy and Tina, two
13 Asian elephants who were confined at the L.A. Zoo, seeking their release to an
14 elephant sanctuary accredited by the Global Federation of Animal Sanctuaries. At
15 the time, I believed the elephants were still confined at the L.A. Zoo. The next
16 day, the L.A. Zoo announced that Billy and Tina had arrived at the Tulsa Zoo in
17 Oklahoma. The elephants had apparently been moved from the L.A. Zoo in the
18 early hours of May 20, 2025, around 1:30 a.m. P.T.

19 3. On the evening of May 21, 2025, I sent a letter to the Court via
20 email informing the Court of this new development and that NhRP intended to
21 proffer an amendment or supplement to the Petition to address the change in
22 circumstances.

23 4. Attached as **Exhibit A** is the proposed Supplemental Petition. It
24 reflects the fact that Billy and Tina are now confined at the Tulsa Zoo, entitled to
25 habeas corpus relief because of the violation of their common law right to bodily
26 liberty, and establishes the Court's continuing jurisdiction in this proceeding.
27

5. Further, the Supplemental Petition argues for the Court’s continuing jurisdiction is based on two grounds:

- First, the Supplemental Petition explains that the Petition should be *deemed* filed on either Friday, May 16, 2025, or Monday, May 19, 2025, when Billy and Tina were still confined at the L.A. Zoo—and thus still in Respondents’ physical custody. This is because NhRP made a total of five attempts over those two days to file the Petition in the Civil Division and Criminal Division, and all five attempts were erroneously rejected by the respective filing clerks;
- Second, the Supplemental Petition explains that Respondents have constructive custody over Billy and Tina, with the authority to direct their release to an accredited elephant sanctuary.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Executed May 28, 2025, in Oakland, California,



Christopher A. Berry
NONHUMAN RIGHTS PROJECT
Attorney for Petitioner

EXHIBIT A

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Case No. 25CJHC00060-01

**SUPPLEMENT TO VERIFIED
PETITION FOR COMMON LAW
WRIT OF HABEAS CORPUS**

Judge: Hon. William C. Ryan
Department: Writs Center 1

Petitioner Nonhuman Rights Project, Inc. (hereafter NhRP), on behalf of the Asian elephants Billy and Tina, incorporates by this reference the allegations set forth in its Verified Petition for Common Law Writ of Habeas Corpus (hereafter Petition), filed on May 20, 2025, except those superseded by the following supplemental allegations:

I. Billy and Tina are now confined at the Tulsa Zoo in Oklahoma, in violation of their common law right to bodily liberty protected by habeas corpus.

1. On April 22, 2025, the Los Angeles Zoo (hereafter L.A. Zoo) announced it would relocate Billy and Tina to the Tulsa Zoo in Oklahoma. On May 21, 2025, the L.A. Zoo announced that Billy and Tina had arrived at the Tulsa Zoo. *Statement on Billy and Tina's Arrival at the Tulsa Zoo*, LOS ANGELES ZOO (May 21, 2025), at: <https://lazoo.org/2025/05/statement-on-billy-and-tinas-arrival-at-the-tulsa-zoo/>. Based on news reports, it appears the elephants were moved from the L.A. Zoo in the early hours of May 20, 2025, around 1:30 a.m. P.T.¹

2. On May 21, 2025, Los Angeles City Councilmember Bob Blumenfield issued a media statement condemning the “secret move” as follows: “Just last week the Zoo director [Respondent Verret] said in public that the move was not imminent, then we found out through the news media that the elephants were taken in the middle of the night. I’m not only disappointed and frustrated by the move, I am equally disappointed and frustrated by the lack of transparency and unwillingness to vet this decision publicly as I requested. . . . While [the move] may be in the AZA’s best interest, we shouldn’t

¹ *Billy & Tina Secretly Removed ... Snuck 'Em Out at 1:30 AM!!!*, TMZ (May 20, 2025), available at: <https://www.tMZ.com/2025/05/20/la-zoo-elephants-billy-tina-moved-overnight-tulsa/>

1 pretend that the AZA's interest is the same as an elephant's or in the best interest of the
2 City of Los Angeles.”²

3 3. Although no longer confined at the L.A. Zoo, the Petition establishes a
4 prima facie case that Billy and Tina are entitled to relief—i.e., release to an elephant
5 sanctuary accredited by the Global Federation of Animal Sanctuaries (hereafter GFAS).
6 Pet. § IV(C). Like their confinement at the L.A. Zoo, their confinement at the Tulsa Zoo
7 is unlawful because it violates their common law right to bodily liberty protected by
8 habeas corpus, by depriving them of the ability to meaningfully exercise their autonomy
9 and extraordinary cognitive complexity, including the freedom to choose where to go,
10 what to do, and with whom to be. See generally Pet. § IV(B); Pet. § IV(D), ¶¶ 98-99;
11 Pet. § VII(C)(2); Pet. § VIII(C)(1). Video evidence showing at least one of the elephants
12 at the Tulsa Zoo engaging in stereotypic behavior—a direct manifestation of brain
13 damage caused by chronic stress—confirms that it cannot meet the needs of elephants.
14 *10 Worst Zoos for Elephants – #8 Tulsa Zoo*, IN DEFENSE OF ANIMALS (Jan. 30, 2023),
15 available at: <https://bit.ly/4dm383I>; see also Pet. § IV(D), ¶ 99.

16 4. Active more than 20 hours each day in the wild, elephants require vast
17 areas to roam, but the space available in zoos is grossly inadequate to meet their physical
18 and psychological needs. Pet. § IV(C), ¶¶ 88-89. In fact, at the Tulsa Zoo—where seven
19 elephants, including Billy and Tina, are confined in a small environment—the available
20 outdoor space per elephant is 1.43 acres, which is less than what was available per
21 elephant at the L.A. Zoo. Pet. § IV(D), ¶ 99. Moreover, Billy will likely be subjected to
22 highly invasive semen collection procedures in his new confinement, further violating
23 his autonomy. *Id.* See Pardo Decl. ¶ 121 (Pet. Ex. 2) (“The current AZA Asian Elephant

24 ² *MEDIA RELEASE: Lawsuit, Celebrity Outrage Sparked by Tulsa Zoo Elephant*
25 *Arrivals*, IN DEFENSE OF ANIMALS (May 23, 2025) (linking to Bob Blumenfield’s
26 statement), available at: [https://www.idausa.org/campaign/elephants/latest-news/media-
27 release-lawsuit-celebrity-outrage-sparked-by-tulsa-zoo-elephant-arrivals/](https://www.idausa.org/campaign/elephants/latest-news/media-release-lawsuit-celebrity-outrage-sparked-by-tulsa-zoo-elephant-arrivals/)

1 Population Analysis & Breeding and Transfer Plan recommends that Billy continue to
2 be used for [captive breeding purposes] (AZA, 2023).”). Billy had already been forced
3 to “participate” in the L.A. Zoo’s captive breeding program at least 55 times, which
4 involved being restrained and having an arm inserted into his anus to induce ejaculation
5 via prostate stimulation. Pet. § IV(C), ¶ 92.

6 5. Elephant experts agree that Billy and Tina should be released to a GFAS-
7 accredited elephant sanctuary, where they will be able to exercise their autonomy to the
8 greatest extent possible. Pet. § IV(D); Pet. § VIII(C)(2). See also *In re Duval* (2020) 44
9 Cal.App.5th 401, 411 (“The scope of a court's authority in granting habeas corpus relief
10 is quite broad. A court, faced with a meritorious petition for a writ of habeas corpus,
11 should consider factors of justice and equity when crafting an appropriate remedy.”)
12 (cleaned up).

13 **II. This Court retains jurisdiction over NhRP’s habeas corpus petition.**

14 **A. NhRP’s habeas corpus petition should be deemed filed on May**
15 **16, 2025, or May 19, 2025, when Billy and Tina were still**
16 **confined at the Los Angeles Zoo—and still in Respondents’**
physical custody.

17 6. A court’s habeas jurisdiction continues throughout the proceeding if the
18 petitioner was in custody at the time the petition is filed—even if the petitioner is later
19 discharged before the completion of the proceeding. *In re Hernandez* (2019) 33
20 Cal.App.5th 530, 542 (hereafter *Hernandez*) (“Even if Hernandez has since been
21 released from probation, her petition is not rendered moot because she was in custody
22 at the time the habeas corpus petition was filed. When a petitioner is in custody at the
23 time the petition is filed, the petitioner’s later discharge does not deprive the trial court
24 of jurisdiction because, once acquired, the court's jurisdiction continues throughout the
25 proceeding and any appeals.”) (citing *Carafas v. LaVallee* (1968) 391 U.S. 234, 239-240
26 and *Chaker v. Crogan* (9th Cir. 2005) 428 F.3d 1215, 1219).

1 7. Here, the Petition should be deemed filed on either Friday, May 16, 2025,
2 or Monday, May 19, 2025, when Billy and Tina were in Respondents' physical custody.

3 8. On Friday, May 16, 2025, NhRP attempted to file its Petition three times
4 in person: two times in Civil Division, one time in Criminal Division. Civil Division
5 rejected the filing solely on the ground that it does not accept habeas corpus petitions,
6 while Criminal Division rejected the filing solely on the ground that the Petition does
7 not concern a confinement related to a criminal conviction or criminal charge. NhRP
8 attempted to file the Petition electronically later that afternoon in Civil Division, but the
9 submission was rejected, again, solely on the ground that habeas corpus cases are filed
10 in Criminal Division.³

11 9. On Monday, May 19, 2025, before 12:00 p.m. P.T., NhRP attempted to
12 re-file the Petition electronically with an explanatory note on the Cover Sheet, per the
13 advice of a Civil Division clerk. The Cover Sheet included the explanation: "Habeas
14 may be a 'civil case' despite LR 1.1(d) when 'context [] otherwise requires' (LR 1.1)
15 and here there is no underlying crime (LR 8.33)." The resubmission was rejected on
16 Tuesday, May 20, 2025, again because habeas corpus cases are filed in Criminal
17 Division. Later that afternoon, this Court accepted the Petition in person.

18 10. The California Supreme Court has long directed that as a general rule,
19 "the court wherein the [habeas corpus] petition is presented must, if the petitioner has
20 otherwise complied with pertinent rules, file the petition and determine whether it states
21 a prima facie case for relief." *Griggs v. Superior Court* (1976) 16 Cal.3d 341, 347. None
22 of the exceptions to this general rule relate to *filing*, but concern when a court should
23 transfer a petition instead of determining whether the petition states a prima facie case

24 ³ When NhRP attempted to file the Petition in person on Friday, May 16, 2025, NhRP
25 also attempted to file an Ex Parte Application for a Temporary Restraining Order and
26 Order to Show Cause for Preliminary Injunction, which sought to prevent Billy and
27 Tina from being transferred to the Tulsa Zoo pending consideration of the Petition. The
Petition submitted for electronic filing was identical to the version submitted in person,
except all references to the Ex Parte Application were removed.

1 for relief. See *id.* (where a habeas petition challenges a particular judgment or sentence,
2 “the petition should be transferred to the court which rendered judgment,” and where a
3 habeas petition challenges the conditions of an inmate’s confinement, “the petition
4 should be transferred to the superior court of the county wherein the inmate is
5 confined”). Simply, if a habeas petition submitted for filing complies with all pertinent
6 rules, the court presented with the petition *must* file it.

7 11. That is the case here. Under *Griggs*, the Court was required to file the
8 Petition on either Friday, May 16, 2025, or Monday, May 19, 2025, because the Petition
9 complied with all pertinent rules.

10 12. No clerk presented with the Petition rejected it for non-compliance with
11 any applicable rules or statutes. Thus, no clerk presented with the Petition had discretion
12 to reject the filing. See *Carlson v. State of California Department of Fish & Game* (1998)
13 68 Cal.App.4th 1268, 1270 (hereafter *Carlson*) (“[S]o long as a complaint complies with
14 state requirements, the clerk has a ministerial duty to file.”); *Rojas v. Cutsforth* (1998)
15 67 Cal.App.4th 774, 777 (“[Where] the defect, if any, is insubstantial, the clerk should
16 file the complaint and notify the attorney or party that the perceived defect should be
17 corrected at the earliest opportunity.”). Even if the Petition was submitted in the wrong
18 division, it should have been accepted for filing and then transferred to another division.

19 13. Accordingly, the Petition must be *deemed* filed on either Friday, May 16,
20 2025, or Monday, May 19, 2025. See *City of Los Angeles v. Superior Court for Los*
21 *Angeles County* (1968) 264 Cal.App.2d 766, 770 (“A paper is deemed to be filed when
22 presented at the proper office and deposited with the papers, especially so when
23 deposited in the proper office with directions to file the paper.”) (cleaned up); *Carlson*,
24 68 Cal.App.4th at 1276 (“To summarize: state law is clear that a paper is deemed filed
25 when it is presented to the clerk for filing in a form that complies with CRC 201.”).

26 14. Under *Hernandez*, this Court continues to retain jurisdiction because the
27 Petition must be deemed filed on either Friday, May 16, 2025, or Monday, May 19, 2025,

1 when Billy and Tina were still confined at the L.A. Zoo—and still in Respondents’
2 physical custody.

3 **B. Respondents have constructive custody over Billy and Tina, with**
4 **the authority to direct their release to a GFAS-accredited**
5 **elephant sanctuary.**

6 15. A habeas petition that states a prima facie case for relief requires the
7 issuance of an order to show cause, directed at the person having custody over the
8 petitioner. *Maas v. Superior Court* (2016) 1 Cal.5th 962, 974. “The key prerequisite to
9 gaining relief on habeas corpus is a petitioner’s custody.” *People v. Villa* (2009) 45
10 Cal.4th 1063, 1069 (hereafter *Villa*)

11 16. Custody can include constructive custody. *Id.* (““decisional law of recent
12 years has expanded the writ’s application to persons who are determined to be in
13 constructive custody””) (citation omitted); *People v. Romero* (1994) 8 Cal.4th 728, 737
14 n.3, as modified on denial of reh’g (Jan. 5, 1995) (“Through a habeas corpus proceeding,
15 a court may grant relief from various forms of constructive custody, as well as from
16 physical restraints.”).

17 17. Importantly, whether a petitioner is in custody for purposes of habeas
18 corpus is not contingent on the petitioner’s physical presence in California. In *Villa*, the
19 California Supreme Court clarified that when determining whether a petitioner is in
20 “actual or constructive state custody,” the critical factor is not “whether the petitioner is
21 within the geographic boundaries of the State of California.” 45 Cal.4th at 1073.
22 “Instead, courts should realistically examine the nature of a petitioner’s custody to
23 determine whether it is currently authorized in some way by the State of California.” *Id.*

24 18. In another case, the California Supreme Court “held that a state parolee
25 subsequently arrested by federal authorities and detained in an out-of-state federal
26 detention facility [in Washington State] could seek habeas corpus relief when the state
27 [of California] placed a detainer hold on him with federal officials.” *Id.* (citing *In re*
Shapiro (1975) 14 Cal.3d 711, 714-15). Although the petitioner “was being held by a

1 different sovereign in a different state,” his petition was “directed to the California Audit
2 Authority.” *Id.* “It is the existence of the detainer initiated in California which is causing
3 the petitioner deleterious consequences at McNeil Island [in Washington State], and
4 petitioner correctly concludes that if the parole violator warrant is invalid the detainer
5 itself will be removed.” *Id.* (citation omitted).

6 19. In the instant case, although Billy and Tina are confined at the Tulsa Zoo,
7 Respondents have constructive custody over the elephants because of their continuing
8 control over the elephants’ fate, for the following reasons.

9 20. First, the L.A. Zoo continues to own Billy. See *Elephant FAQs*, LOS
10 ANGELES ZOO, available at: <https://lazoo.org/elephantfaq/> (“Billy has been owned by the
11 Los Angeles Zoo since his arrival from peninsular Malaysia in 1989.”), available at:
12 <https://lazoo.org/elephantfaq/>. Respondent City of Los Angeles, which owns the L.A.
13 Zoo, thus has the authority to direct Billy’s release to an accredited elephant sanctuary.

14 21. Second, Respondent City of Los Angeles appears to have a continued
15 property interest in Tina, based on the fact that San Diego Zoo—which owned Tina
16 while she was at the L.A. Zoo—was merely “supportive” of her transfer to the Tulsa
17 Zoo (see <https://lazoo.org/elephantfaq/>). It is unclear what input, if any, San Diego Zoo
18 had in the decision-making process. At the very least, Respondent’s ongoing interest
19 appears to be unclear and is worthy of further factual development.

20 22. Third, Respondent Denise Verret is not only the head of the L.A. Zoo but
21 also the Board Chair of the Association of Zoos and Aquariums (hereafter AZA),⁴ which
22 is the accrediting body for both the L.A. Zoo and the Tulsa Zoo.⁵ The Board of the AZA

24 ⁴ *In With the New!*, LOS ANGELES ZOO (Oct. 22, 2024), available at:
25 <https://lazoo.org/explore-your-zoo/blog/in-with-the-new/>.

26 ⁵ *Currently Accredited Zoos and Aquariums*, at available: [https://www.aza.org/find-a-](https://www.aza.org/find-a-zoo-or-aquarium)
27 [zoo-or-aquarium](https://www.aza.org/find-a-zoo-or-aquarium) (L.A. Zoo “[a]ccredited through March 2028”; Tulsa Zoo
“[a]ccredited through September 2028”).

1 “serves as the governing authority over the entire AZA organization,” with authority
2 over “policy work, committees, accreditation, [and] financial oversight,” as well as, “all
3 the animal programs, managed breeding programs and species survival plans, SAFE,
4 and the Wildlife Trafficking Alliance.”⁶ Significantly, “[t]he board chair is the highest
5 role in the AZA.”⁷

6 23. In her role as the AZA Board Chair, Respondent Verret has the authority
7 to direct Billy and Tina’s relocation to a GFAS-accredited elephant sanctuary, and
8 Respondent City of Los Angeles has the authority to compel Respondent Verret—its
9 employee—to issue that directive. This authority is also evidenced by the fact that
10 Respondent Verret can direct that Billy continue to be subjected to grotesque semen
11 collection procedures for purposes of captive breeding.

12 24. Accordingly, just as Respondents authorized and facilitated Billy and
13 Tina’s relocation to the Tulsa Zoo, they can authorize and facilitate their release to a
14 GFAS-accredited elephant sanctuary.

15
16 **PRAYER FOR RELIEF**

17 Petitioner NhRP respectfully requests that this Court:

- 18 1. Issue an order to show cause pursuant to Cal. Rules of Court 4.551(c)(1);
19 2. Order Respondents to direct that Billy and Tina be released from their
20 unlawful confinement at the Tulsa Zoo and transferred to an elephant
21 sanctuary accredited by the Global Federation of Animal Sanctuaries;
22 3. Grant all other relief necessary for the just resolution of this case.
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24

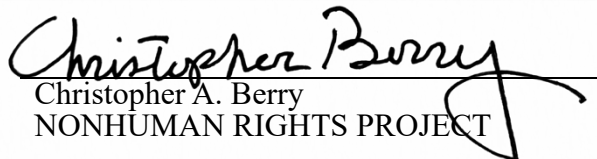
25 _____
26 ⁶ *In With the New!*, LOS ANGELES ZOO (Oct. 22, 2024), at available:
<https://lazoo.org/explore-your-zoo/blog/in-with-the-new/>.

27 ⁷ *Id.*

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DATED: May 28, 2025

Respectfully submitted,


Christopher A. Berry
NONHUMAN RIGHTS PROJECT

Attorney for Petitioner

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1. I am an attorney admitted to practice law in the State of California. I am an attorney for Petitioner Nonhuman Rights Project, Inc. on behalf of Billy and Tina and I am authorized to file this Supplemental Petition on their behalf.

3. I have read the Supplemental Petition and believe the allegations therein are true.

Executed May 28, 2025, in Oakland, California,

Attorney for Petitioner