

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

Clara Shortridge Foltz Criminal Justice Center Dept. - 56W

25CJHC00060-01

June 12, 2025

In re:

8:30 AM

NONHUMAN RIGHTS PROJECT, INC

Honorable William C. Ryan, Judge
J. Arceo, Judicial Assistant

PC1473

NATURE OF PROCEEDINGS: Judicial Action

The following parties are present for the aforementioned proceeding:

No Appearances

The matter is called for Judicial Action.

MEMORANDUM OF DECISION

(HABEAS CORPUS)

IN CHAMBERS

Petition for writ of habeas corpus (Petition) and Supplemental Petition by Nonhuman Rights Project, Inc., on behalf of elephants Billy and Tina, represented by Christopher Berry, Esq., and Monica Miller, Esq. No appearance by Respondents, the City of Los Angeles and Denise M. Verret, Executive Officer and Zoo Director of the Los Angeles Zoo and Botanical Gardens (L.A. Zoo). Denied.

BACKGROUND

On April 22, 2025, the L.A. Zoo announced the impending relocation of elephants named Billy and Tina to the Tulsa Zoo in Oklahoma. (Supp. Petn. at p. 2.) In the early morning hours of May 20, 2025, the L.A. Zoo began the transfer of Billy and Tina and announced their arrival at the Tulsa Zoo on May 21, 2025. (Supp. Petn. at p. 2.) Meanwhile, during business hours on May 20, 2025, Petitioner filed the instant Petition alleging that Billy and Tina are entitled to common law habeas corpus relief. Specifically, Petitioner argues that Billy and Tina are being confined at the L.A. Zoo in violation of their common law right to bodily liberty, that they are necessarily “persons” for the purposes of habeas corpus, and that they are entitled to release to an accredited elephant sanctuary.

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On May 28, 2025, the court granted Petitioner's request to supplement the Petition and, on the same day, the court accepted the filing of the Supplemental Petition to address the custodial and jurisdictional issue in light of the elephants' out-of-state relocation. In the Supplemental Petition, Petitioner argues that the original Petition should be deemed filed prior to the May 20 transfer of the elephants because Petitioner attempted to file the Petition four times with both the Civil and Criminal Divisions of this court beginning May 16, 2025, but those filings were improperly rejected. (Supp. Petn. at pp. 5-7.) Petitioner also argues that the L.A. Zoo maintains constructive custody of both Billy and Tina, for the purpose of habeas corpus jurisdiction. (Supp. Petn. at p. 7.) Petitioner alleges that Billy is still owned by the L.A. Zoo and that the L.A. Zoo appears to maintain a property interest in Tina, despite being owned by the San Diego Zoo. (Supp. Petn. at p. 8.)

DISCUSSION

A. Factual Discussion

Petitioner offers extensive evidence via expert declarations to demonstrate that elephants are autonomous and extraordinarily cognitively complex. Petitioner writes:

"The cognitive abilities of elephants include: autonomy; empathy; self-awareness; self-determination; theory of mind (awareness others have minds); insight; working memory; extensive long-term memory that allows them to accumulate social knowledge; the ability to act intentionally and in a goal-oriented manner, and to detect animacy and goal directedness in others; understanding the physical competence and emotional state of others; imitating, including vocal imitation; pointing and understanding pointing; engaging in true teaching (taking the pupil's lack of knowledge into account and actively showing them what to do); cooperating and building coalitions; cooperative problem-solving, innovative problem-solving, and behavioral flexibility; understanding causation; intentional communication, including vocalizations to share knowledge and information with others in a manner similar to humans; ostensive behavior that emphasizes the importance of a particular communication; displaying a wide variety of gestures, signals, and postures; using specific calls and gestures to plan and discuss a course of action, adjusting their planning according to their assessment of risk, and executing the plan in a coordinated manner; complex learning and categorization abilities; and, an awareness of and response to death, including grieving behaviors."

(Petition, ¶ 31, pp. 20 and 21.)

What follows are 48 very interesting paragraphs elaborating on all the elephant behaviors listed in Paragraph 31. (Petr. at pp. 21 to 45.)

Next, Petitioner explains why zoo captivity is harmful to elephants, why the Los Angeles Zoo cannot meet the elephants' needs, and why only an elephant sanctuary is the appropriate place for the elephants. (Petr. at pp. 45 to 56.)

B. Legal Discussion

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The court accepts that jurisdiction and venue are proper in this court. The court further assumes, without deciding, that the Petitioner has standing to bring the proceeding.

But all this begs the question. How would the remedy of petitioning for a writ habeas corpus apply to an animal? Indeed, the plain language of the Penal Code states that “A person unlawfully imprisoned or restrained of their liberty, under any pretense, may prosecute a writ of habeas corpus to inquire into the cause of their imprisonment.” (Pen. Code, § 1473, subd. (a) (2025) West’s Unannotated, p. 979) (emphasis added).)

Person is generally defined as a human being. See e.g. Merriam-Webster Dictionary- Thesaurus: “Person : 1 HUMAN, INDIVIDUAL” (www.merriamwebster.com/dictionary/person [accessed June 5, 2025]); Webster’s Ninth New Collegiate Dictionary: Person 1. HUMAN BEING, INDIVIDUAL at 877 (Merriam-Webster, Inc., 1981); Webster’s Third New International Dictionary: “Person 1a an individual human being” at 1686, col. 2 (G. C Merriam and Co., 1961). By its plain terms, the habeas corpus statute in this state applies to humans only.

Petitioner, however, argues at great length about how habeas corpus is a flexible remedy and has been in the past extended as needed. Petitioner recounts historical judicial interpretations of habeas corpus dating as far back as 1772 where prosecution of the writ was extended to “those whose humanity was routinely diminished” (Petrn. at pp. 60-61, 65) to support the argument that it should be extended to other “autonomous” species, but there must be outer bounds of that expansion.

The court is unaware, however, of any time in history when a court appeared inclined to extend habeas corpus to nonhuman beings. Though Petitioner cites the dissenting opinions of two New York Court of Appeal justices that would have found that an elephant named Happy in the Bronx Zoo made a prima facie case, the holding of the majority opinion affirmed the lower court’s dismissal of Happy’s habeas petition concluding “that habeas corpus—which exists to protect liberty interests—is not the appropriate forum to resolve disputes concerning the confinement of nonhuman animals.” (Nonhuman Rights Project, Inc. v. Breheny (2022) 38 N.Y.3d 555, 574 (Breheny).)

Petitioner asserts that this court need only assume, at this juncture, that the elephants could possess liberty rights and should issue an order to show cause. The court does not doubt that Billy and Tina are “extraordinarily cognitively complex beings” (Petrn. at p. 20) but, ultimately, they lack bodily liberty in the way it is contemplated on habeas corpus.

Petitioner’s argument regarding their custody itself belies that Billy and Tina are property. Elephants, as nonhuman animals, have protections, though not rights, such as those found in Penal Code section 596, et sequitur. Certainly, Billy and Tina should be treated with adequate care for their physical and mental wellbeing; but habeas corpus is not the enforcement vehicle. As civilized society’s knowledge expands and social norms surrounding animals evolve over time, the proper governmental branch to develop and harmonize animal welfare protections with society’s moral standing is the legislative one, not the judicial. Because the

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writ of habeas corpus is intended to protect the liberty right of human beings to be free of unlawful confinement, it has no applicability to Billy and Tina, nonhuman animals who are not a “persons” subjected to illegal detention. (Breheny, supra, at 535-536.)

Assuming the facts alleged in the Petition are true, including any affidavits and documentary evidence submitted, Petitioner fails to allege facts establishing a prima facie case for habeas relief. (People v. Duvall (1995) 9 Cal.4th 464, 474-475.)

DISPOSITION

For the foregoing reason, the petition is summarily DENIED. The Clerk is ordered to serve a copy of this order upon Petitioner, and upon the Office of the City Attorney as counsel for Respondent.

Footnote:

1) One expert suggests that References to elephants in the Expert Declarations are applicable to both African and Asian elephants. Dr. Joyce Poole notes: “If the general term ‘elephants’ is used with no specific delineation, it can be assumed the comment relates to the African species, though it is likely that it applies to the Asian species as well.” Poole Decl. ¶ 23. This is because “both African and Asian elephants share many key traits of autonomy with humans and like humans are [both] autonomous beings.” *Id.* at ¶ 69.

CLERK’S CERTIFICATE OF MAILING

I, David W. Slayton, Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served a copy of the above minute order of June 12, 2025 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: June 12, 2025

By: /s/ J. Arceo
J. Arceo, Deputy Clerk

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