

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

NONHUMAN RIGHTS PROJECT, INC., on  
behalf of Angeline, Savanna, Tasha, Victoria, and  
Zuri,

*Petitioner,*

v.

ZOOLOGICAL SOCIETY OF PITTSBURGH and  
DR. JEREMY GOODMAN, CEO and President of  
the Pittsburgh Zoo,

*Respondents.*

CIVIL DIVISION

Case No. GD-25-010963

**REPLY BRIEF IN SUPPORT  
OF MOTION TO DISMISS  
PETITION FOR WRIT OF  
HABEAS CORPUS**

Filed on Behalf of Respondents

Counsel of Record for Respondents

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_____	)	

**REPLY BRIEF IN SUPPORT OF  
MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**

Respondents, the Zoological Society of Pittsburgh (d/b/a Pittsburgh Zoo & Aquarium) (the “Pittsburgh Zoo”) and Dr. Jeremy Goodman, respectfully submit this Reply Brief in Support of the Motion to Dismiss Petition for Writ of Habeas Corpus pursuant to the Court’s January 2, 2026 Order.

**I. INTRODUCTION**

Before this Court is the question of law raised by the Pittsburgh Zoo and Dr. Goodman: whether an elephant is a person entitled to invoke Pennsylvania’s Habeas Corpus Act, 42 Pa. C.S. § 6501, *et seq.* Displeased with the express — and intended — text of Pennsylvania’s Habeas Corpus Act, Petitioner Nonhuman Rights Project (“NHRP”)’s Response in Opposition requests this Court to do that which it cannot do. In short, NHRP asks this Court to ignore Pennsylvania’s statutory law as enacted and replace it with newly-expanded common law sought by NHRP that conflicts with the body of Pennsylvania jurisprudence that regards animals as property, not persons with fundamental “rights.” No matter the level of passion underlying NHRP’s beliefs, it cannot

supplant Pennsylvania law as written. As more fully set forth below, the Pittsburgh Zoo and Dr. Goodman respectfully request that the Court grant the Motion to Dismiss.

## II. REPLY

### A. NHRP's Claim Fails under the Pennsylvania Habeas Corpus Statute.

NHRP's demand that the Court ignore Pennsylvania's Habeas Corpus Act, Pennsylvania's Statutory Construction Act, and the unambiguous statutory definition of the term "person" is simply incorrect and misguided. Respectfully, the Court cannot ignore Pennsylvania's valid statutory law.<sup>1</sup>

Pennsylvania's habeas corpus statute is clear and unambiguous — the statute authorizes a "person," not an animal, to petition for habeas relief. *See* 42 Pa. C.S. § 6503. Under Pennsylvania law, the interpretation of a Pennsylvania statute is guided by the Pennsylvania Statutory Construction Act. *See Herold v. University of Pittsburgh*, 329 A.3d 1159, 1176 (Pa. 2025) ("Our interpretation of the statutes of the Commonwealth is guided by the Statutory Construction Act of 1972. Indeed, the General Assembly has mandated that the interpretative provisions of this act apply to *all* statutes.") (emphasis added) (internal citation omitted). The statutory definition of the term "person" is also clear and unambiguous. *See* 1 Pa. C.S. § 1991; *see also* 1 Pa. C.S. § 1903(a); 1 Pa. C.S. § 1921(b); *Herold*, 329 A.3d at 1176 ("If the meaning of the word or language employed

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<sup>1</sup> Pennsylvania law has historically favored statutory law over common law. *See* 1 Pa. C.S. § 1504 ("In *all* cases where a remedy is provided or a duty is enjoined or anything is directed to be done by any statute, the directions of the statute shall be strictly pursued, and no penalty shall be inflicted, or anything done agreeably to the common law, in such cases, further than shall be necessary for carrying such statute into effect.") (emphasis added); *see also White v. Conestoga Title Ins. Co.*, 53 A.3d 720, 731 (Pa. 2012) ("The rule regarding the exclusive nature of a statutory remedy is one of Pennsylvania's oldest legal principles."); *Commonwealth v. Peterkin*, 722 A.2d 638, 640 (Pa. 1998) (describing habeas corpus as a remedy); *Commonwealth v. Wolfe*, 605 A.2d 1271, 1273 (Pa. Super. 1992) (same).

is unmistakable, courts construe the statute according to its clear meaning.”). An elephant is *not* a “*person*” entitled to invoke Pennsylvania’s habeas corpus statute.<sup>2</sup> NHRP’s argument to the contrary is simply unavailing.

NHRP’s contention that the Court may disregard valid statutory law is incorrect. Consider the following example involving the Pennsylvania Post-Conviction Relief Act, 42 Pa. C.S. §§ 9541, *et seq.* The Post-Conviction Relief Act subsumes common law habeas corpus relief. *See* 42 Pa. C.S. § 9542; *see also* 42 Pa. C.S. § 6503(b). In other words, the Pennsylvania General Assembly enacted a statute that limits the availability of common law habeas corpus relief for those individuals who fall within the purview of the statute. The Pennsylvania Supreme Court held that those limitations in the Post-Conviction Relief Act are constitutional. *See Peterkin*, 722 A.2d at 642 (“It is axiomatic that no constitutional rights are absolute. All rights are subject to reasonable restrictions.”). If, as NHRP suggests, the Court may simply disregard valid statutory law when that statutory law is unfavorable to — and indeed prohibits — NHRP’s position, and replace it with newly-expanded common law created solely by NHRP, then those individuals who fall under the purview of the Post-Conviction Relief Act could also ignore and circumvent the statute entirely. This result is obviously inconsistent with the statute and the entire body of case law that derives from the Post-Conviction Relief Act. *See, e.g., Peterkin*, 722 A.2d at 643 (affirming dismissal of request for habeas relief as untimely under PCRA); *Commonwealth v. DiVentura*, 734 A.2d 397, 399 (Pa. Super. 1999) (same). The same principle applies here. NHRP’s Petition clearly fails under the Pennsylvania habeas corpus statute.

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<sup>2</sup> The Pennsylvania Habeas Corpus Act accurately reflects habeas corpus at common law. NHRP has not identified any competent legal authority at common law to suggest that habeas relief is available to anything other than a human being. Nor can it. By extension, NHRP failed to demonstrate that Pennsylvania’s statute is inconsistent, in any way, with the common law.

**B. NHRP's Claim Fails under Pennsylvania Common Law.**

NHRP's desire to disregard the statutory law as written and enacted and demand that it be replaced with new common law that suits its needs is premised upon a hollow argument. Even if the Pennsylvania Habeas Corpus Act did not exist, NHRP's claim would still clearly fail under Pennsylvania common law. There is no common law authority to support NHRP's contention that an elephant is the legal equivalent of a human being and entitled to petition for habeas relief. *See* Resp'ts. Brief pgs. 5-6. As a result, there is no conflict between the common law and the statute, nor has the statute "narrowed" the habeas corpus constitutional decree. Tellingly, NHRP is forced to acknowledge the lack of legal authority to support its novel claim. *See* Pet.'s Brief pg. 9. And, the cases that NHRP cites further emphasize that habeas relief is afforded only to humans. *See, e.g., Commonwealth ex rel. Levin v. Fair*, 146 A.2d 834, 846 (Pa. 1958) ("writ of habeas corpus ad subjiciendum is the *prerogative of the citizen; the safeguard of his person*") (emphasis added). NHRP simply has not identified a single instance in which a court of competent jurisdiction has held that a nonhuman animal has a lawful right to petition for habeas relief.

The case law that addresses NHRP's repeated attempts to pursue such claims in an increasing number of states uniformly establishes that such claims fail. For more than a decade, NHRP has repeatedly and unsuccessfully sought to convince multiple courts across the country that animals are the legal equivalent of a human being and entitled to petition for habeas relief. Every single court has denied NHRP's claims. *See* Resp'ts.' Brief pg. 4-5, n.4. In its Response, NHRP contends that this growing body of uniform case law in which courts from across the country have unanimously rejected NHRP's demands, somehow, "lack[s] persuasive value" in this matter. *See* Pet.'s Brief pg. 14. Faced with the inconvenient, uniform adjudication against it everywhere else, NHRP essentially demands that this Court "ignore these irrational out-of-state

decisions” and create new Pennsylvania law premised upon a dissent that is not even the law in New York. *See* Pet.’s Brief pg. 15-16.

Although it is true that courts have found that habeas relief may be “molded to suit the exigencies of any particular case,” in actuality these have been modest extensions of the writ and in all cases based on the premise that an individual’s fundamental or constitutional right is being eroded. *See, e.g., Commonwealth ex rel. Bryant v. Hendrick*, 280 A.2d 110, 113 (Pa. 1971) (holding that violations of the Eighth Amendment right to protection from cruel and unusual punishment should be included within the scope of habeas relief); *Commonwealth ex rel. Stevens v. Myers*, 213 A.2d 613, 624 (Pa. 1965) (modifying the “prematurity doctrine” and allowing habeas relief post-conviction but before a sentence commences); *Levine*, 146 A.2d 834 (extending habeas relief to individuals pre-conviction and prior to a preliminary hearing). The drastic changes for which Petitioner advocates here are not consistent with the development of the common law.<sup>3</sup> The expansion that NHRP seeks, by contrast, would have far-ranging implications that disrupt many aspects of how animals are treated by the law and society as a whole.

NHRP’s interpretation of the common law as supporting the argument that elephants should be deemed “persons” capable of seeking habeas relief is completely undermined by the fact that Pennsylvania’s statutes, caselaw, and jurisprudence have always treated animals as “property” or “chattel” in the law, capable of being owned, cared for, and utilized by human beings. *See*

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<sup>3</sup> NHRP’s comparison to the expansion of the writ of habeas corpus to enslaved humans and women, Pet.’s Brief pgs. 11-12, has aptly been referred to as an “odious comparison with concerning implications.” *Nonhuman Rights Project, Inc. v. Breheny*, 197 N.E. 3d 921, 928 (N.Y. App. 2022); *see also Nonhuman Rights Project, Inc. v. DeYoung Family Zoo, LLC*, No. 369247, 2025 Mich. App. LEXIS 8469, at \*26 (Mich. App. Oct. 17, 2025) (finding that “failures to honor human personhood” are not “expansions” of the writ beyond the human species). It is over-the-top rhetoric that tries to create moral equivalents where none exist.

Resp'ts.' Brief pg. 6, n.6. In a troubling selective quotation from the *Breheny* elephant case, NHRP cites: "the courts — not the legislature — ultimately define the scope of the common-law writ of habeas corpus" *but conveniently omits the next clause*: "these statutory distinctions [between "persons" and "animals"] reflect the abiding view that nonhuman animals are not persons with a common-law right to liberty that may be secured through a writ of habeas corpus." *Breheny*, 197 N.E. 3d at 932. So to here.<sup>4</sup> Pennsylvania's laws regarding animals reflect the same abiding and uniform view — animals are property and not persons. *See* Resp'ts.' Brief pg. 6, n.6. It is telling that NHRP fails to cite to *any* text in a single Pennsylvania case or statute that would indicate a purpose to consider animals as humans in the law. Nor does NHRP make any attempt to harmonize long-standing Pennsylvania law — which has always treated animals as "property" — with an elephant's so-called fundamental right to "bodily liberty." NHRP's brief is silent on this point because there is no such support in the law to be found. For if the common law supported treating elephants as persons, or recognizing that an elephant has fundamental rights akin to humans, this would turn nonhuman animals' status in the law on its head. As every court to consider NHRP's attempts to demand habeas relief has held, this monumental shift in the law, if ever to occur, must come from the legislature.

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<sup>4</sup> Pennsylvania has multiple statutes that distinguish between "persons" and "animals." *See, e.g.* 7 Pa. Code § 1.340 (distinguishing "animal" from "human"); 7 Pa. Code §16.24 (distinguishing "wild animals" from "humans"); 28 Pa. Code § 27.1 (distinguishing "person" from "animal"); 49 Pa. Code § 41.61 (distinguishing between "human being" and "animal"). NHRP's demand here would by extension undermine far more than just Pennsylvania's Habeas Corpus Act.

C. **Clarifying Respondents' Position Regarding "Next Friend" Standing.**

Additionally, NHRP mischaracterizes and/or misses the point of Respondents' argument regarding "next friend" standing.<sup>5</sup> Respondents acknowledged the lack of controlling Pennsylvania case law requiring "next friend" standing to pursue habeas relief under Pennsylvania's habeas corpus statute. The position that Respondents have taken is that the court *should* require a petitioner to demonstrate "next friend" standing to pursue habeas relief under Pennsylvania's habeas corpus statute.

As established in Respondents' principal brief, the United States Supreme Court requires that a third-party purporting to act on behalf of another demonstrate "next friend" standing before it may seek habeas relief on behalf of that person under the federal habeas corpus statute. *See* Resp'ts.' Brief pgs. 7-8. The Pennsylvania Supreme Court also requires that a third-party purporting to act on behalf of another meet their burden of establishing "next friend" standing before it may seek habeas relief on behalf of that person under the Pennsylvania Post-Conviction Relief Act. *See* Resp'ts.' Brief at pgs. 9-10.

The underlying public policy requiring "next friend" standing before a third-party is permitted to seek habeas relief on behalf of another under either the federal habeas corpus statute or the Pennsylvania Post-Conviction Relief Act applies equally to seeking habeas relief under the Pennsylvania habeas corpus statute. *See* Resp'ts.' Brief at pgs. 8-9; *see also Whitmore v. Arkansas*, 495 U.S. 149, 164 (1990) ("These limitations on the 'next friend' doctrine are driven by the recognition that it was not intended that the writ of habeas corpus should be availed of, as matter

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<sup>5</sup> In its Response, NHRP seemingly attempts to argue that it has standing in its own right to proceed with this matter based on the language of the Pennsylvania Habeas Corpus Act, the same statute that it inconsistently contends does not apply. For the reasons addressed in Respondents' principal brief, NHRP is again incorrect.

of course, by intruders or uninvited meddlers, styling themselves next friends.”); Randy Hertz & James S. Liebman, 1 FEDERAL HABEAS CORPUS PRACTICE & PROCEDURE § 8.3[b] (describing “a uniform concern third-party petitioners not be intruders or uninvited meddlers, styling themselves next friends, and particularly that the intervening parties *not be seeking to use the litigation to advance their own ideological, political, financial, or legal interests.*”) (emphasis added); *Naruto v. Slater*, 888 F.3d 418, 421, n.3 (9th Cir. 2018) (finding animal rights group PETA did not establish next friend status and “seems to employ [the real party in interest monkey] as an unwitting pawn in its ideological goals.”).<sup>6</sup>

Based on the foregoing, and consistent with prudential concerns warranting inquiry into the motivations of next friends, it seems obvious that, if the Pennsylvania Supreme Court were to consider this issue, it would require that a third-party purporting to act on behalf of another first demonstrate “next friend” standing before it may seek habeas relief on behalf of that person under the Pennsylvania habeas corpus statute. Respondents, therefore, respectfully assert, for the reasons addressed in Respondents’ principal brief, that NHRP has failed to demonstrate “next friend” standing in this matter.

**D. NHRP Fails to Allege a *Prima Facie* Case.**

NHRP’s Response misrepresents that, on January 2, 2026, the Court issued a Rule to Show Cause “because the Petition’s factual allegations (accepted as true) established a prima facie case that elephants are entitled to release from their unlawful confinement.” Pet.’s Brief pg. 21. This was a clear misrepresentation by NHRP. The Rule to Show Cause plainly states that “[b]y issuance of this Rule to Show Cause, the Court *has not* made any findings/determinations as to the validity

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<sup>6</sup> NHRP failed to meaningfully address this public policy concern relating to NHRP and its involvement in this matter.

of the Petitioner’s claims.” (emphasis added). Counsel for the Pittsburgh Zoo and Dr. Goodman raised this very concern during the January 2, 2026 Case Management Conference. In response, the Court made it clear that it was not making a determination as to the validity of the Petition and that the disposition of the Motion to Dismiss would obviously dictate whether there would be further proceedings on the merits. Merely to hold dissipating future dates on the Court’s calendar, the Court issued a scheduling order first for the Motion to Dismiss and a second scheduling order in the event NHRP’s Petition should survive. That order was nothing more than a mere scheduling order and NHRP’s attempt to claim that this Court issued a first of its kind in the country order accepting and advancing NHRP’s habeas corpus ideology for public relations and/or fundraising purposes is false and improper. This Court’s two January 2, 2026 Orders were solely to calendar scheduling deadlines for purposes of judicial economy and efficiency and to hold dates on a calendar that the Court stated would disappear if not claimed, and nothing more. NHRP has broadcasted similar misrepresentations across its social platforms. *See*, Exhibit A, Kelly Holt, *Judge Issues Pennsylvania’s First Habeas Corpus Order for Nonhuman Animals*, NONHUMAN RIGHTS PROJECT, INC. (Jan. 13, 2026).

Regardless, a petition for a writ of habeas corpus should be denied summarily and without a hearing where the petition fails to allege facts making out a *prima facie* case. *See Commonwealth ex rel. v. Rodgers v. Claudy*, 90 A.2d 382, 383 (Pa. Super. 1952); *Commonwealth v. Eades*, No. 3544 EDA 2015, 2017 Pa. Super. Unpub. LEXIS 1903, at \*6 (Pa. Super. May 19, 2017). Because there is no basis in the law to attribute a “fundamental right to bodily liberty” or “personhood” to elephants, NHRP cannot establish a *prima facie* entitlement to the writ as a matter of law. NHRP has not identified any competent legal authority to suggest that an elephant has a constitutional right to due process or a constitutional right to protection from cruel and unusual punishment. *See*,

*e.g.*, U.S. Const. amend. XIV § 1 (“nor shall any State deprive any person of life, liberty, or property, without due process of law”) (emphasis added); Pa. Const. Art. I, § 1 (“All men are born equally free and independent”) (emphasis added); Pa. Const. Art. I, § 9 (“In all criminal prosecutions the accused . . . [cannot] be deprived of his life, liberty or property . . .”); Pa. Const. Art. I, § 11 (“every man for an injury done him . . . shall have remedy by due course of law”); Pa. Const. Art. I, § 20 (“[t]he citizens have a right . . . to apply to those invested with the powers of government for redress of grievances”); *see also* *Tilikum v. Sea World Parks & Entm’t, Inc.*, 842 F. Supp. 2d 1259 (S.D. Cal. 2012) (holding that Thirteenth Amendment to the United States Constitution applies to humans, not animals, and dismissing plaintiffs’ action). Furthermore, as addressed in Respondents’ principal brief, it is undisputed that the elephants are housed at the Pittsburgh Zoo in accordance with federal, state, and local law — *i.e.* not unlawfully confined. *See* Resp’ts.’ Brief pgs. 11-12; *see also* Pet. ¶ 101. NHRP does not deny this. Therefore, NHRP has not established, nor is it even possible to establish, a *prima facie* case in this circumstance.

NHRP’s Response is unavailing on this point. It contends that the elephants have been unlawfully confined in violation of a purported common law right to bodily liberty, and that based on this right, “they are necessarily ‘persons’ for purposes of habeas corpus.” Pet.’s Brief pg. 3, n.3. NHRP’s circular argument, however, is not based on any competent legal authority that has recognized the existence of such a right with respect to an elephant or any animal, for that matter. *See* Pet. ¶ 188 (“the Court should find it irrelevant that the right to bodily liberty has not yet been recognized in an elephant”). In fact, in its Petition, NHRP requests that the Court recognize — more accurately create — this purported right in the first instance. *See* Pet. ¶¶ 183-190. NHRP cannot credibly contend that the elephants’ continued residence at the Pittsburgh Zoo, in

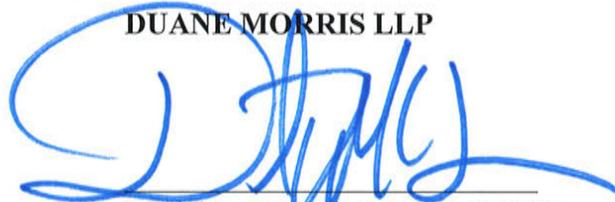
compliance with all applicable federal, state, and local law, is somehow unlawful because it violates a purported right that does not even exist.

Without having a right under Pennsylvania law to petition for the writ in the first place, there is simply no basis to advance to a merits hearing that undertakes analysis of all aspects of the elephants' existence at the Pittsburgh Zoo. As a matter of law, NHRP clearly cannot establish entitlement to habeas corpus relief. While NHRP appears to pursue the Petition for publicity and/or fund-raising purposes outside the courtroom, Pennsylvania's Habeas Corpus Act and this Court should not be utilized for such purposes. As such, the Respondents respectfully request that the Court summarily dismiss this matter.

February 9, 2026

Respectfully submitted,

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# EXHIBIT A

News

## Judge Issues Pennsylvania's First Habeas Corpus Order for Nonhuman Animals

Historic ruling advances Nonhuman Rights Project case for elephants held captive at the Pittsburgh Zoo

By Kelly Holt

January 13, 2026

**PITTSBURGH, PA — January 13, 2026** — Judge Mary C. McGinley of the Allegheny County Court of Common Pleas issued Pennsylvania's first-ever habeas corpus order for a nonhuman animal, moving forward a [habeas corpus petition](#) filed by the Nonhuman Rights Project (NhRP) on behalf of African elephants held by the Pittsburgh Zoo.

The judge issued two related orders. [The first](#) sets a January 28 hearing on the zoo's Motion to Dismiss the NhRP petition. If the motion is denied, [the second order](#)

requires the zoo to show cause justifying the elephants' continued confinement under the law at a full hearing on the petition's merits on March 2.

"The legal system routinely refuses to even hear cases brought on behalf of animals simply because they are not human," said NhRP Senior Staff Attorney Jake Davis. "That the court is examining this case is a welcome departure from business as usual and an opportunity to correct the gross injustice of the elephants' captivity." The Pittsburgh Zoo has repeatedly appeared on In Defense of Animals' "10 Worst Zoos for Elephants in North America" list.

The NhRP's petition cites expert declarations describing elephants' profound physical and psychological need for choice, movement, and social bonds. It also details alleged harm from zoo practices, including restraint, early separation of mothers and calves, and the disruption of bonded groups. The upcoming hearings will determine whether elephants will continue to be held captive by the zoo in a harmful, unnatural environment or be returned to their native wilderness or released to a sanctuary.

The Pennsylvania ruling is the third nonhuman animal habeas corpus order in U.S. history, all of which were obtained by the NhRP. The case follows the NhRP's high-profile litigation on behalf of [Happy the Elephant](#), which concluded in New York's highest court with two judges issuing landmark dissenting opinions in favor of recognizing the availability of habeas corpus to certain autonomous, cognitively complex nonhuman animals. Both lawsuits are rooted in the fundamental principles of justice, liberty, and equality, and draw on centuries of case law, as well as the science of elephant cognition and behavior.

Access the NhRP's [media kit](#), including court filings and photos and videos of the elephants for use in media coverage (credit Molly Condit).

###

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that requires filing confidential information and documents differently than non-confidential information and documents.

February 9, 2026

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'D. McLane', is written over a horizontal line. The signature is stylized and cursive.

Daniel B. McLane

**CERTIFICATE OF SERVICE**

I certify that on February 9, 2026, a true and correct copy of the foregoing Reply Brief in Support of Motion to Dismiss Petition for Writ of Habeas Corpus was served via email on the following:

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