

**Electronically Filed
Supreme Court
SCWC-24-0000323
04-MAY-2026
12:51 PM
Dkt. 13 RACB**

NO. SCWC-24-0000323

IN THE SUPREME COURT OF THE STATE OF HAWAII

NONHUMAN RIGHTS PROJECT, INC., on
behalf of Mari and Vaigai, individuals,

Petitioner/Appellant,

vs.

CITY AND COUNTY OF HONOLULU,
DEPARTMENT OF ENTERPRISE
SERVICES and its DIRECTOR, DITA
HOLIFIELD, and the HONOLULU ZOO
DIRECTOR, LINDA SANTOS,

Respondents/Appellees.

ON APPLICATION FOR WRIT OF
CERTIORARI TO THE INTERMEDIATE
COURT OF APPEALS

APPEAL FROM THE JUDGMENT ON
APPEAL FILED IN CAAP-24-0000323
[DKT. 67] ON FEBRUARY 26, 2026

INTERMEDIATE COURT OF APPEALS
STATE OF HAWAII

HONORABLE KEITH K. HIRAOKA
Presiding Judge

HONORABLE CLYDE J. WADSWORTH
Associate Judge

HONORABLE KIMBERLY T. GUIDRY
Associate Judge



**RESPONDENTS/APPELLEES CITY AND COUNTY OF HONOLULU, DEPARTMENT
OF ENTERPRISE SERVICES AND ITS DIRECTOR, DITA HOLIFIELD, AND THE
HONOLULU ZOO DIRECTOR, LINDA SANTOS' RESPONSE TO BRIEF OF
AMICUS CURIAE OF ANIMAL LAW SECTION OF THE HAWAI'I STATE
BAR ASSOCIATION IN SUPPORT OF PETITIONER-APPELLANT**

CERTIFICATE OF SERVICE

DANA M.O. VIOLA 6095
Corporation Counsel

JACQUELINE M. DE LEEUW HUANG 11644
PATRÍCIA A.V. SENDÃO 11708
Deputies Corporation Counsel
City and County of Honolulu
1001 Bishop Street, Suite 2020
Honolulu, Hawai'i 96813
Phone Nos. (808) 768-5248 / (808) 768-5121
Facsimile: (808) 768-1300
Emails: j.deleeuwhuang@honolulu.gov
patricia.sendao@honolulu.gov

Attorneys for Respondents/Appellees
CITY AND COUNTY OF HONOLULU DEPARTMENT OF ENTERPRISE SERVICES
AND ITS DIRECTOR, DITA HOLIFIELD, AND THE HONOLULU ZOO DIRECTOR,
LINDA SANTOS

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	PROCEDURAL BACKGROUND	2
III.	DISCUSSION	2
IV.	CONCLUSION	3

TABLE OF AUTHORITIES

Cases	Page(s)
<i>F.T.C. v. Phoebe Putney Health Sys., Inc.</i> , 568 U.S. 216, 133 S. Ct. 1003 (2013)	2
<i>State v. Palama</i> , 136 Hawai‘i 543, 364 P.3d 251 (Ct. App. 2015).....	2, 3
<i>Zango, Inc. v. Kaspersky Lab, Inc.</i> , 568 F.3d 1169 (9th Cir. 2009)	2

RESPONDENTS/APPELLEES CITY AND COUNTY OF HONOLULU, DEPARTMENT OF ENTERPRISE SERVICES AND ITS DIRECTOR, DITA HOLIFIELD, AND THE HONOLULU ZOO DIRECTOR, LINDA SANTOS' RESPONSE TO BRIEF OF *AMICUS CURIAE* OF ANIMAL LAW SECTION OF THE HAWAI'I STATE BAR ASSOCIATION IN SUPPORT OF PETITIONER-APPELLANT

I. INTRODUCTION

The Animal Law Section of the Hawai'i State Bar Association's ("HSBA") Brief of *Amicus Curiae* ("Amicus Brief") seeks to address whether the writ of habeas corpus, limited to persons unlawfully detained, applies to non-human animals.¹ See Dkt. 11. HSBA's arguments in its Amicus Brief, however, improperly expand the scope of the appeal in this case.²

HSBA advances an argument grounded in the "Aloha Spirit," asking this Court to consider the "advance[ment] of the Aloha Spirit's respect for the dignity of nature," in support of recognizing non-human animals' entitlement to habeas relief. *Id.* at 7.³ NhRP did not raise this argument in its Application. By urging this Court to grant relief on "Aloha Spirit" grounds, HSBA advances a new theory of relief that NhRP did not assert below. An *amicus curiae* may not introduce new grounds for relief or expand the case beyond the issues presented by the parties in the appeal. Accordingly, HSBA's argument should be precluded from this Court's review.

¹ Petitioner/Appellant Nonhuman Rights Project, Inc.'s ("NhRP") Application for Writ of Certiorari was filed on April 24, 2026 ("Application"). Dkt. 5. This response is submitted pursuant to this Court's Order Granting Motion for Leave to File Amicus Curiae Brief, dated April 27, 2026. Dkt 9. The City and County of Honolulu Department of Enterprise Services and its Director, Dita Holifield, and the Honolulu Zoo Director, Linda Santos (collectively "City") does not waive, and expressly reserves, all rights to oppose NhRP's Application. The City intends to file an opposition to NhRP's Application.

² The parties before the Circuit Court of the First Circuit ("Circuit Court") and the Intermediate Court of Appeals ("ICA") were NhRP and the City. HSBA did not file an *amicus curiae* brief when this case was before the ICA.

³ All page number citations refer to the PDF page number of the electronic document.

II. PROCEDURAL BACKGROUND

NhRP filed its Application on April 24, 2026. Dkt. 5. On April 27, 2026, HSBA filed its Motion for Leave to Appear and File *Amicus Curiae* Brief. Dkt. 7. On the same day, this Court entered its Order Granting Motion for Leave to File Amicus Curiae Brief (“Order”). Dkt. 9. The Order directed HSBA to file its *amicus curiae* brief within three days of the Order. HSBA filed its Amicus Brief on the same day. Dkt. 11. The City intends to file a response to NhRP’s Application.

III. DISCUSSION

It is well-established that an *amicus curiae* must accept the case before the reviewing court as it stands on appeal, with the issues as framed by the parties, and may not introduce new issues. *State v. Palama*, 136 Hawai‘i 543, 364 P.3d 251 (Ct. App. 2015) (SDO) (“[A]n *amicus curiae* generally cannot raise issues that have not been preserved by the parties.”); *see also F.T.C. v. Phoebe Putney Health Sys., Inc.*, 568 U.S. 216, 226 n.4, 133 S. Ct. 1003, 1011 n.4 (2013) (“Because this argument was not raised by the parties or passed on by the lower courts, we do not consider it.”); *Zango, Inc. v. Kaspersky Lab, Inc.*, 568 F.3d 1169, 1177 n.8 (9th Cir. 2009) (“An *amicus curiae* generally cannot raise new arguments on appeal[.]”).

HSBA’s “Aloha Spirit” argument is a new theory of relief in this case. HSBA asks this Court to grant relief on the basis of the “Aloha Spirit,” and issue a ruling consistent with “[its] values [of] nature’s dignity, kindness, and humility[.]” Dkt. 11 at 7. In doing so, HSBA urges this Court to consider the “Aloha Spirit” as an independent legal ground for this Court’s decision, going beyond the scope of the issues presented by NhRP in its Application. *See id.* at 7–8. The “Aloha Spirit” was not raised by NhRP in its Application, nor in any court below. NhRP does not rely on the “Aloha Spirit” as a basis for its argument that non-human animals are

entitled to habeas relief. While this Court retains authority to consider legal authorities *sua sponte*, that principle does not permit an *amicus curiae* to introduce new, independent grounds for relief in this Court’s appellate review. *Palama*, 136 Hawai‘i at 543, 364 P.3d at 251.

IV. CONCLUSION

For the foregoing reasons, the City respectfully requests that this Court decline to expand the scope of this case, and preclude consideration of HSBA’s “Aloha Spirit” argument as requested in its Amicus Brief.

DATED: Honolulu, Hawai‘i, May 4, 2026.

DANA M.O. VIOLA
Corporation Counsel

By /s/ Patricia A.V. Sendão
JACQUELINE M. DE LEEUW HUANG
PATRÍCIA A.V. SENDÃO
Deputies Corporation Counsel

Attorneys for
Respondents/Appellees
CITY AND COUNTY OF HONOLULU
DEPARTMENT OF ENTERPRISE
SERVICES AND ITS DIRECTOR, DITA
HOLIFIELD, AND THE HONOLULU
ZOO DIRECTOR, LINDA SANTOS

NO. SCWC-24-0000323

IN THE SUPREME COURT OF THE STATE OF HAWAII

NONHUMAN RIGHTS PROJECT, INC., on
behalf of Mari and Vaigai, individuals,

Petitioner/Appellant,

vs.

CITY AND COUNTY OF HONOLULU,
DEPARTMENT OF ENTERPRISE
SERVICES and its DIRECTOR, DITA
HOLIFIELD, and the HONOLULU ZOO
DIRECTOR, LINDA SANTOS,

Respondents/Appellees.

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served upon the following parties via electronic filing in the Judiciary Electronic Filing and Service System (JEFS), or via U.S. Mail, postage prepaid, as indicated on the date below:

CHERYL NOLAN, ESQ. (JEFS)
611 Pennsylvania Avenue, SE #345
Washington, DC 20003

Attorney for Petitioner-Appellant
Nonhuman Rights Project, Inc.,
on behalf of Mari and Vaigai, individuals

SAVANNAH SHERMAN, ESQ. (U.S. MAIL)
Animal Law Section of the Hawai'i State Bar Association
PO Box 22366
Honolulu, Hawai'i 96823

Attorney for *Amicus Curiae*
Animal Law Section of the Hawai'i State Bar Association

DATED: Honolulu, Hawai‘i, May 4, 2026.

DANA M.O. VIOLA
Corporation Counsel

By /s/ Patrícia A.V. Sendão
JACQUELINE M. DE LEEUW HUANG
PATRÍCIA A.V. SENDÃO
Deputies Corporation Counsel

Attorneys for
Respondents/Appellees
CITY AND COUNTY OF HONOLULU
DEPARTMENT OF ENTERPRISE
SERVICES AND ITS DIRECTOR, DITA
HOLIFIELD, AND THE HONOLULU
ZOO DIRECTOR, LINDA SANTOS