

**IN THE SUPERIOR COURT OF PENNSYLVANIA
WESTERN DISTRICT**

No. 377 WDA 2026

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

Appellant,

v.

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

Appellees.

BRIEF OF THE APPELLANT

On Appeal from the Final Order of February 12, 2026,
Granting Motion to Dismiss the Petition for Writ of Habeas Corpus
in the Allegheny County Court of Common Pleas, Docket No. GD-25-010963

The Honorable Mary C. McGinley, Judge Presiding.

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STATEMENT OF JURISDICTION

The Court has jurisdiction over this matter pursuant to Pennsylvania Rule of Appellate Procedure (“Pa.R.A.P.”) 341(b)(1) because the Allegheny County Court of Common Pleas issued an Order of Court dated February 12, 2026, which disposed of all claims and of all parties. The Nonhuman Rights Project, Inc., (“Appellant” or “NhRP”), by and through undersigned counsel, timely filed a Notice of Appeal on March 10, 2026.

ORDER AND OTHER DETERMINATION IN QUESTION

I. Order in Question

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA CIVIL DIVISION

ORDER OF THE COURT

AND NOW, this 12th day of February, 2026, upon consideration of Respondents’ Motion to Dismiss Petition for Writ of Habeas Corpus, response thereto, and briefing and argument thereon, it is hereby ORDERED as follows:

1. Said Motion is GRANTED. The Petition for Writ of Habeas Corpus in the above-captioned case is denied and this matter is dismissed with prejudice. The Petition filed in the Court of Common Pleas of Somerset County at No. 870 Civil 2025, which was coordinated in the Court of Common Pleas of Allegheny County at the above-captioned case pursuant to Order dated January 12, 2026, is correspondingly denied and the matter dismissed with prejudice.
2. Paragraphs 1, 3-5 of the Court’s January 2, 2026 Order issuing a Rule and

scheduling a hearing and related deadlines are VACATED.

II. Other Determination in Question

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA CIVIL DIVISION

TRANSCRIPT

THE COURT: Before the Court is respondents' motion to dismiss petition for writ of habeas corpus. The Court does not concur that an analysis of personage must be deferred to a merits based hearing.

At issue is whether habeas corpus relief applies to extraordinary nonhumans, elephants, more specifically several elephants located in Pennsylvania and Somerset counties. This analysis touches on standing, a threshold matter, and on whether a prima facie case exists, also a preliminary issue that the Court may decide as a matter of law.

42 Pa.C.S. Section 6501, et seq. -- that's 42 Pa.C.S. Section 6501, et seq. -- is the applicable statute addressing habeas corpus relief in Pennsylvania. It expressly states that, quote, "An application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person, restrained of his liberty, within this Commonwealth under any pretense whatsoever," end quote.

The question that is ripe before this Court is whether the term "person" extends to nonhumans and again, specifically in this case, elephants.

Pennsylvania's habeas corpus statute does not define the term "person"; however, it is subject to Pennsylvania's Statutory Construction Act, 1 Pa.C.S. Section 1501, et seq., which applies to every statute enacted by the General Assembly after a certain date including the habeas corpus statute. The Court concludes that the Act has some application even in this context.

Section 1991 of the Act states that the term "person," quote, "includes a corporation, partnership, limited liability company, business trust, other association, government entity other than the Commonwealth, estate, trust, foundation, or natural person," end quote.

Natural person is not defined, but the adjective "natural" is used to distinguish a living person from the corporate definition of person in Pennsylvania statutory bodies of authorities. Additionally, Black's Law Dictionary defines a person as, quote, "a human being" or, quote, "a natural person."

Merriam-Webster Dictionary defines a person as a, quote, "human individual" and a, quote, "natural person," end quote, as a, quote, "human being as distinguished from a person (as a corporation created by operation of law)", end quote.

It must be noted that even if statutory framework is ignored, legal authority in the common law context in many jurisdictions similarly has not extended the category of persons beyond human beings.

The Court's conclusion that an elephant is not a person for purposes of habeas corpus is fatal to the petition. Based on the Court's review of applicable legal authority, the protections of habeas corpus may not be extended to nonhumans. Correspondingly, the petitioners lack standing and are unable to maintain the petition based upon a prima facie inquiry on behalf of nonhumans or elephants.

Despite the petitioner's laudable goals in advocating for elephants, certainly remarkable nonhumans, the petition, which is in the nature of an argument for an extension of existing law or the establishment of new law, seeks leaps that this Court is unable to make based upon existing legal authority. The Court concludes that this realm is best left to the General Assembly.

Accordingly, the motion to dismiss is granted, and the hearing scheduled for March 2 is canceled. Thank you for your attention and, again, your thoughtful arguments, everyone. (Tr. 53-57; R. 578a-582a.)

STATEMENT OF THE SCOPE AND STANDARD OF REVIEW

"Whether the trial court employed the correct scope of review for the petition for Writ of *Habeas Corpus* is a pure question of law. 'Ordinarily, an appellate court will review a grant or denial of a petition for Writ of *Habeas Corpus* for abuse of discretion, but for questions of law, our standard of review is *de novo*, and our scope of review is plenary.'" *Commonwealth v. Merced*, 265 A.3d 786, 792 (Pa. Super. Ct. 2021) (quoting *Commonwealth v. McClelland*, 233 A.3d 717, 732 (Pa. 2020)).

Here, the lower court dismissed the petition at the pleading stage based upon legal conclusions concerning standing, legal personhood, and whether the Petition sufficiently alleged a prima facie case warranting further proceedings: “This analysis touches on standing . . . and on whether a prima facie case exists . . . issue(s) this Court may decide as a matter of law.” (Tr. p. 54; R. 579a.) Per the Court’s own admission, those determinations present questions of law and are thus subject to a de novo standard of review and a plenary scope of review. Simply, because the lower court dismissed the Petition without conducting an evidentiary inquiry, the issues before this Court are purely legal.

STATEMENT OF THE QUESTIONS INVOLVED

1. Does the underlying petition for a common law writ of habeas corpus on behalf of Angeline, Savanna, Tasha, Victoria, and Zuri establish a prima facie case for habeas corpus relief thereby requiring the lower court to conduct an evidentiary hearing on the merits?¹

Lower court’s answer: No.

Suggested answer: Yes. The petition sufficiently alleges that the elephants possess a common law right to bodily liberty protected by habeas corpus and, at a minimum, warrants development of a full evidentiary record through a return certifying the true cause of detention followed by a merits hearing.

¹ This appeal arises from consolidated petitions as discussed *infra*.

a. Can these elephants be “persons” for purposes of habeas corpus?

Lower court’s answer: No.

Suggested answer: Yes. Whether the elephants are “persons” for purposes of habeas corpus is a merits question that is not resolved at the pleading stage; it has no bearing on (i) Appellant’s standing or (ii) whether a prima facie case of unlawful confinement was sufficiently alleged. If, following a merits hearing, a court finds the elephants have the common law right to bodily liberty protected by habeas corpus, they are necessarily “persons” for purposes of the writ. That is because legal personhood is not an independent status that exists separate from rights; it denotes the capacity to possess a legally enforceable right, such as the right to bodily liberty protected by habeas corpus.

b. Is the question of whether elephants are “persons” for purposes of habeas corpus subject to a common law analysis or a statutory analysis?

Lower court’s answer: Statutory analysis.

Suggested answer: Common law analysis. This is a common law action because habeas corpus is a common law writ in Pennsylvania. Habeas corpus statutes govern venue and procedure; they do not govern substantive entitlement to the writ.

2. Do Angeline, Savanna, Tasha, Victoria, and Zuri possess the common law right to bodily liberty protected by habeas corpus?

Lower court’s answer: No.

Suggested answer: Yes. Autonomy lies at the foundation of the common law right to bodily liberty protected by habeas corpus, and the scientific record establishes that Angeline, Savanna, Tasha, Victoria, and Zuri are autonomous individuals. Recognizing that right is not a matter for the General Assembly.

STATEMENT OF THE CASE

This appeal concerns whether a court may dismiss a habeas corpus petition at the pleading stage despite well-pled allegations establishing a prima facie case of unlawful confinement. As habeas corpus scholar, Professor of History, and Professor of Law, Paul Halliday, explains, courts “issue[] the writ by reasoning not from precedents, but from the writ’s central premise: that it exists to empower the justices to examine detention in all forms.”² Ever adaptable and constantly evolving, the Great Writ is a time-honored common law remedy that serves as the law’s last line of defense against unjust confinement. It has never been limited to those whose liberty interests were already recognized in law. To the contrary, habeas corpus has long occupied a singular place in our legal system because it empowers courts to test the legality of confinement even when the confined individual possesses few or no previously recognized legal rights.

At its core, the history of habeas corpus is the story of individuals once relegated to the status of property, or treated as legal “things,” invoking the only

² PAUL HALLIDAY, *HABEAS CORPUS: FROM ENGLAND TO EMPIRE* 176 (Harv. U. Press 2010).

legal mechanism capable of challenging their confinement to seek freedom. When those claims succeeded, courts necessarily recognized that the confined individual possessed the common law right to bodily protected by habeas corpus and therefore qualified as a “person” for purposes of the writ. Accordingly, the lower court’s conclusion that “an elephant is not a person for purposes of habeas corpus is fatal to the petition” cannot be reconciled with one of the Great Writ’s central and most revered functions: permitting courts to examine the legality of confinement even when the detainee’s right to liberty has not yet been recognized by law. (Tr. p. 56; R. 581a.)

The facts necessary to resolve this appeal are supported by eight declarations (“Expert Declarations”) submitted by nine of the world’s foremost elephant scientists, including Dr. Joyce Poole. (Petition ¶ 13; R. 10a.) The Expert Declarations establish that Angeline, Savanna, Tasha, Victoria, and Zuri are autonomous and extraordinarily cognitively complex individuals who communicate using individual names, maintain lifelong social bonds, teach one another, grieve their dead, plan, remember, and exercise self-determination. *Id.* at ¶¶ 16-18; R. 12a-13a. They also explain that elephants have evolved to traverse vast distances over increasingly varied terrain and live within intricate multi-generational social structures fundamentally incompatible with the sterility of zoo captivity. *Id.* at ¶¶ 76-85; R. 40a-44a. Accordingly, confinement at the Pittsburgh Zoo and the

International Conservation Center—the zoo’s offsite breeding facility located in Somerset County—deprives the elephants of autonomy, disrupts their social lives, and inflicts profound physical, psychological, and neurological harm. *Id.* For Victoria and Zuri, that harm is compounded by their transfer to the zoo’s offsite breeding facility for forced breeding, an invasive and coercive process unrelated to wild elephant conservation. *Id.* at ¶ 11, n.3; R. 6a. The forced breeding process further strips the sisters of autonomy over one of the species’ most intimate and consequential experiences.³

The procedural history of this case is brief. On October 20, 2025, Appellant filed the original Petition for a Common Law Writ of Habeas Corpus (Case No. GD-25-010963) when all five elephants were confined at the Pittsburgh Zoo (“Petition”). One week later, on October 27, 2025, and without Appellant’s knowledge, the Pittsburgh Zoo transferred sisters Victoria and Zuri to the zoo’s offsite breeding facility to forcibly breed them. Appellant thereafter filed a separate habeas corpus

³ The birth of a wild elephant calf is a profound social event. Mothers are surrounded by family and herd members who gather to greet the newborn with trumpeting, rumbling, and protective support. *See, e.g.,* Sheldrick Wildlife Trust, *Yatta’s first born wild calf*, available at:

<https://www.sheldrickwildlifetrust.org/news/updates/yatta-s-first-born-wild-calf>

(“Over fifty elephants had appeared that morning to greet and support Yatta and her baby, celebrating the birth with much trumpeting and rumbling, showering Yetu in trunk kisses and gentle embraces.”). Captivity severs the social fabric that ordinarily surrounds an elephant’s birth while failing to advance conservation. Indeed: “The African Elephant Specialist Group of the IUCN Species Survival Commission . . . has stated that it does not see any contribution to the effective conservation of the species through captive breeding per se.” Born Free USA, *Elephants in Zoos: A Legacy of Shame* 31 (May 2022), available at:

<https://www.bornfreeusa.org/campaigns/animals-in-captivity/elephant-report/>.

petition on behalf of Victoria and Zuri in Somerset County (Case No. 870Civil2025) (“Somerset Petition”). On January 12, 2026, the lower court consolidated the matters for resolution (“Consolidated Petition”).

In late December 2025, Appellees Zoological Society of Pittsburgh and Dr. Jeremy Goodman (collectively, “Appellees”) moved to dismiss the Petition. Following a status conference on January 2, 2026, the Honorable Mary C. McGinley issued a conditional Rule to Show Cause, becoming effective only if the Appellant prevailed on Appellees’ motion to dismiss (“MTD”). Appellant opposed the MTD on January 21, 2026, and Appellees replied on February 8, 2026. After oral argument on February 12, 2026, Judge McGinley granted Appellees’ MTD in a bench order and dismissed the Consolidated Petition.⁴ This timely appeal followed.

SUMMARY OF ARGUMENT

The lower court erred by dismissing the Petition at the pleading stage. Pennsylvania law requires a merits hearing whenever a habeas corpus petition establishes a prima facie case of unlawful confinement. The Petition and accompanying Expert Declarations satisfied that standard and therefore warranted

⁴ For ease of reference, all citations hereafter are to the original Petition, reproduced from pages 1a–449a in the Reproduced Record. The original Petition is substantively identical to the Somerset Petition in all material respects, differing only in its allegations concerning forced breeding. Accordingly, the arguments set forth herein regarding the Petition apply equally to the Consolidated Petition and the lower court’s disposition thereof in its bench order.

issuance of an unqualified order to show cause (“OSC”), a return certifying the true cause of detention,⁵ and a merits hearing.

In dismissing the Petition, the lower court erroneously conflated several distinct legal inquiries: standing, legal personhood, the sufficiency of the Petition’s prima facie case, and the ultimate merits of the elephants’ claim to liberty. Whether Angeline, Savanna, Tasha, Victoria, and Zuri are “persons” for purposes of habeas corpus has no bearing on threshold questions such as standing or whether the Petition states a prima facie case, and should not have been decided at the preliminary stage of the inquiry. The dispositive question of whether the elephants possess the common law right to bodily liberty protected by habeas corpus—and are therefore “persons” for purposes of the writ—is a determination on the merits. Crucially, centuries of habeas corpus jurisprudence demonstrate that courts may assume (without deciding) that a detainee might possess that right in order to reach the merits and determine whether the detention is lawful.

The lower court further erred by treating that common law question as one of statutory interpretation. Habeas corpus is a constitutionally protected common law remedy whose substantive scope derives from the common law, not from statutory

⁵ See 42 Pa.C.S. § 6504 (“The writ, or the order to show cause why the writ should not issue, shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding 20 days, is allowed. The person to whom the writ or the order is directed shall make a return certifying the true cause of the detention.”).

definitions, dictionary definitions, judicially imposed definitions, or nonbinding authority from other jurisdictions. Moreover, not only was the lower court wrong in applying a statutory analysis, but it was also wrong in its interpretation of the statute. Neither the Statutory Construction Act nor ordinary principles of statutory interpretation support the conclusion that elephants are categorically excluded from the term “person.”

The ultimate question presented by this case is whether Pennsylvania common law should recognize that five autonomous, extraordinarily cognitively complex individuals possess a right to bodily liberty protected by habeas corpus. The lower court avoided answering that question by resting its decision on statutory definitions, nonbinding authority, and the absence of controlling Pennsylvania precedent. It further concluded that recognition of such a right is a matter for the General Assembly. But defining the substantive scope of the Great Writ—and determining whether the common law should evolve to protect previously unrecognized liberty interests—has always been a core judicial function. Because the Petition established a prima facie case warranting further proceedings, the order dismissing the Petition should be reversed.

ARGUMENT

The Great Writ is the common law’s enduring sentinel of liberty, standing watch against unlawful restraint wherever it may be found. As the Pennsylvania Supreme Court observed:

There is no locked door which may not be opened by the key of habeas corpus, there is no stone wall which may not be pierced by it, there is no enclosure which may not be entered by the person bearing this writ, which is now accepted as the greatest and most important remedy known to jurisprudence and which Blackstone called ‘the most celebrated writ in the English law.’

Commonwealth ex rel. Levine v. Fair, 394 Pa. 262, 284 (1958).⁶

I. Legal Personhood is a Juridical Category, Not a Biological Category

Legal personhood is a juridical category denoting the capacity to possess at least one legally enforceable right. It is a concept that attaches to any individual or entity recognized by law as the holder of a legal right, regardless of the source of that right. As a leading jurisprudential scholar explained: “A person is any being

⁶ Judge Thomas E. Martin, Jr. (ret.), a former chair of the Pennsylvania Supreme Court’s Minor Court Rules Committee, recognized the adaptive nature and enduring importance of the Great Writ:

One genius of the common law was its ability to adapt ordinary procedures to accomplish substantive goals. Habeas corpus represents just such a transformation: a utilitarian writ for transporting prisoners changed into a mighty bulwark for liberty. While its use in Pennsylvania has become less frequent and sometimes misunderstood, it overturned slavery in England, restored the right to counsel and freedom from coerced confessions in America, and has withstood the test of time throughout the English speaking world.

Hon. Thomas E. Martin, Jr., *Habeas Corpus in Pennsylvania Today*, 87 PA. B. ASS’N Q. 83, 83 (April 2016) (abstract).

whom the law regards as capable of rights or duties,” and “[a]ny being that is so capable is a person, whether a human being or not.” *Person*, BLACK’S LAW DICTIONARY (12th ed. 2024) (quoting JOHN SALMOND, JURISPRUDENCE 318 (10th ed. 1947)); *see also Tucker v. Alexandroff*, 183 U.S. 424, 438 (1902) (the United States Supreme recognized a ship as a legal person that possessed “a personality of her own”). Indeed, as early as the 1920s, American scholar of property law and professor at Harvard Law School, John Chipman Gray, recognized that “animals may conceivably be legal persons” if they possess legal rights, and there may be “systems of Law in which animals have legal rights.” JOHN CHIPMAN GRAY, THE NATURE AND SOURCES OF THE LAW 42-43 (2d ed. 1963) (reprint of the 1921 second edition).

Consistent with the understanding that legal personhood is a juridical concept instead of a biological one, Pennsylvania law has long recognized that legal personhood is not limited to humans. In other words, “person” and human are not synonymous. *See, e.g., Missett v. Hub Int’l Pa, LLC*, 6 A.3d 530, 535 (Pa. Super. Ct. 2010) (“A corporation is a separate, fictional legal person distinct from its shareholders or employees.”); *Robinson Twp. v. Commonwealth*, 623 Pa. 564, 595 (2013) (“Political subdivisions, the Court has recognized, are legal persons, which have the right and indeed the duty to seek judicial relief . . .”). Accordingly, “if a corporation—a legal fiction created to benefit some humans—can have

constitutional rights protected in our courts, then the law can recognize an autonomous animal's right to judicial consideration of their claim to be released from an unjust captivity." *Nonhuman Rights Project, Inc. v. Breheny*, 38 N.Y.3d 555, 631 (2022) (Rivera, J., dissenting); (Petition ¶¶ 168-182; R. 79a-87a) (providing a detailed discussion of legal personhood).

Moreover, the fact that a detainee's status as a legal person is disputed does not place that detainee beyond the reach of habeas corpus. As the now-Chief Judge of the New York Court of Appeals explained, historically, "the writ was vigorously used to challenge the detention of slaves when, under law, they were deemed chattel, and to challenge the detention of women and children who at the time, though not chattel property, had no legal existence." *Breheny*, 38 N.Y.3d at 579 (Wilson, J., dissenting). That understanding of legal personhood, informed by the protections of the Great Writ, was put into practical application in Cecilia's Case, where an Argentine court granted habeas corpus relief on behalf of a captive chimpanzee named Cecilia.⁷

There, the court recognized Cecilia as a legal person, granted her habeas corpus relief, and ordered her transferred from the custody of the Mendoza Zoo to

⁷ Presented by A.F.A.D.A. *About the Chimpanzee "Cecilia" – Nonhuman Individual*, File No. P.72.254/15 (Third Court of Guarantees, Mendoza, Argentina, Nov. 3, 2016) [English translation], at: <https://bit.ly/3mkkSmy> ("Cecilia's Case").

that of a sanctuary in Brazil. Cecilia’s Case at 32. The court rejected the state attorney’s contention that habeas corpus was unavailable because Cecilia was a “thing” and not a “human person.” *Id.* at 5. Instead, it held habeas corpus was “the applicable procedure” to “preserve Cecilia’s right to live in an environment and conditions appropriate for her species,” which she now does.⁸ *Id.* at 31-32. Cecilia’s Case demonstrates that the question is not whether a detainee is human, but whether the law recognizes that detainee as capable of possessing a legally enforceable right, for that is what makes one a legal person.⁹

II. The Lower Court Erred In Dismissing the Petition Prior to Holding a Merits Hearing Because the Petition Made a Prima Facie Showing that Angeline, Savanna, Tasha, Victoria, and Zuri’s Confinement is Unlawful

The lower court erred in dismissing the Petition because Pennsylvania law requires a merits hearing whenever a habeas petition makes a prima facie showing of unlawful confinement. “Habeas corpus is a writ of right, and may not be refused to one who shows a prima facie case entitling him to be discharged or bailed.” *Commonwealth ex rel. Penland v. Ashe*, 341 Pa. 337, 340 (1941) (citation omitted)

⁸ The Supreme Court of Pennsylvania has looked to international legal trends when asked to evolve the common law. *See, e.g., Falco v. Pados*, 444 Pa. 372, 376 (1971) (In abrogating the doctrine of parental immunity for personal torts, the Supreme Court recognized that “[m]odern decisions in Scotland and Canada have recognized such personal injury suits.”).

⁹ (Petition ¶ 210; R. 98a-101a) (providing additional examples of international courts recognizing the legal rights of nonhuman animals).

(cleaned up).¹⁰ A prima facie case exists where a petition for habeas relief avers “facts which, if true, would entitle the relator to an award of a writ of habeas corpus and a hearing thereon.” *Balsamo v. Mazurkiewicz*, 417 Pa. Super. 36, 40 (1992). In determining whether a petition warrants a hearing, a habeas court “must accept as true all allegations of fact contained in the petition which are non-frivolous, specific, and not contradicted by the record” *Commonwealth ex rel. West v. Myers*, 423 Pa. 1, 4 (1966) (citation omitted). Thus, “[i]f accepting the petitioner’s allegations as true the writ would issue, then it is incumbent upon the court to hold a hearing affording the petitioner the opportunity to establish the truth of his allegations.” *Id.*

Pennsylvania courts favor development of potentially meritorious habeas claims over summary dismissal. Even where this Court has concluded that allegations only “*may* be prima facie sufficient,” it has nevertheless emphasized that the appropriate practice is to follow established habeas corpus procedure rather than summarily dismiss a petition. *Commonwealth ex rel. Chambers v. Claudy*, 171 Pa. Super. 115, 116 (1952) (emphasis added). Relying on the immediate precursor to a materially unchanged Chapter 65, the *Claudy* court explained:

[T]he better practice in such a habeas corpus proceeding is for the judge to allow [a] rule to show cause why the writ should not be issued when

¹⁰ See also *Commonwealth ex rel. Milewski v. Ashe*, 362 Pa. 48, 50 (1949) (“A writ of habeas corpus is a writ of right and may not be refused where the relator shows a prima facie case entitling him to be discharged or bailed.”); *In re Williamson’s Case*, 26 Pa. 9, 15 (1855), *overruled on other grounds by In re Messmore’s Est.*, 293 Pa. 63 (1928) (“It is a writ of right, and may not be refused to one who shows a prima facie case entitling him to be discharged or bailed.”).

the petition avers facts which are prima facie sufficient for the issuance of a writ; and that answer be filed if the facts as averred are to be denied.

Id. at 116 n.1. Although that court ultimately declined to remand because the contemplated hearing would have served only to impeach the lower court record, the import of *Claudy* is clear: established habeas corpus procedure requires an answer and evidentiary hearing if a petition plausibly alleges unlawful confinement.

Even under ordinary Pennsylvania pleading standards, Appellees' MTD should have been denied. In Pennsylvania, a motion to dismiss for failure to state a claim is raised through preliminary objections in the nature of a demurrer pursuant to Pa.R.C.P. 1028(a)(4).¹¹ This Court has recognized "the rule that preliminary objections should be sustained and a complaint dismissed only in cases which are clear and free from doubt." *Harkins v. Zamichieli*, 266 Pa. Super. 401, 404 (1979) (citation omitted). In other words, "[t]o sustain preliminary objections in the nature of demurrer, it must appear with certainty that, upon the facts averred, the law will not permit recovery by the plaintiff." *Id.* at 404-05 (citation omitted). "Where any doubt exists as to whether or not the preliminary objections should be sustained, that doubt should be resolved by refusing to sustain the objections." *Id.* (citation omitted).

¹¹ See, e.g., *Erdely v. Hinchcliffe & Keener, Inc.*, 875 A.2d 1078, 1081 (Pa. Super. Ct. 2005) ("Appellees filed preliminary objections in the nature of a motion to dismiss for legal insufficiency of the complaint on the grounds that Appellants failed to allege a justiciable controversy pursuant to Pa.R.C.P. 1028(a)(4).").

Here, established habeas corpus procedure required issuance of an unqualified OSC, a return certifying the true cause of detention, and a merits hearing. The Petition and accompanying Expert Declarations established a prima facie case that Angeline, Savanna, Tasha, Victoria, and Zuri possess the common law right to bodily liberty and that Appellees are violating that right by confining the elephants at the Pittsburgh Zoo and the zoo's offsite breeding facility. Because the Petition plausibly alleged unlawful confinement—and because those allegations were required to be accepted as true at the pleading stage—the lower court was required to issue an unqualified OSC, permit the filing of a return identifying the true cause of detention, and conduct a merits hearing. In other words, the lower court was required to deny Appellees' MTD and proceed under established habeas corpus procedure. *See, e.g., Nonhuman Rights Project, Inc. v. Breheny*, 38 N.Y.3d 555, 620 (2022) (Wilson, J., dissenting) (“Finally, given what the information Happy has submitted reveals about how she experiences the world as an elephant and about her environment at the Bronx Zoo, has Happy made a prima facie showing of possible unjust confinement that grants her a full hearing to decide the merits of her habeas petition? She has.”).

At a minimum, the Petition raised substantial legal and factual questions regarding the lawfulness of the elephants' confinement that could not be resolved on a motion to dismiss. That alone required denial of the MTD because Pennsylvania

courts sustain demurrers only where it appears “with certainty” that the law permits no recovery. *Harkins*, 266 Pa. Super. at 405. Courts should be especially reluctant to foreclose novel common law claims at the pleading stage because the common law evolves through precisely the type of reasoned adjudication and factual development that dismissal below foreclosed.¹²

A. The Lower Court’s Standing Analysis Is Wrong

On the issue of standing, the lower court reasoned as follows:

The Court’s conclusion that an elephant is not a person for purposes of habeas corpus is fatal to the petition. Based on the Court’s review of applicable legal authority, the protections of habeas corpus may not be extended to nonhumans. Correspondingly, the petitioners lack standing and are unable to maintain the petition based upon a prima facie inquiry on behalf of nonhumans or elephants.

(Tr. p. 56; R. 581a.) The basis for the lower court’s standing determination is unclear. The court appears to have conflated multiple distinct concepts, including standing, the sufficiency of the Petition’s prima facie case, and the ultimate merits question concerning the elephants’ right to liberty and resulting legal status as “persons.” Regardless of how the lower court’s reasoning is construed, its standing analysis is erroneous. Chapter 65 and the historical application of the Great Writ establish the

¹² See, e.g., *Albert M. Greenfield & Co., Inc. v. Kolea*, 475 Pa. 351, 357 (1977) (“Courts have a duty to reappraise old doctrines in the light of the facts and values of contemporary life particularly old common law doctrines which the courts themselves created and developed. As we have said before, the continued vitality of the common law depends upon its ability to reflect contemporary values and ethics.” (citation omitted) (cleaned up)).

NhRP's standing to bring the Petition on behalf of Angeline, Savanna, Tasha, Victoria, and Zuri. Whether the elephants are "persons" for purposes of habeas corpus is part of a separate merits question that has no bearing on the standing inquiry.

(1) Whether the Elephants Are "Persons" is Irrelevant to Whether Appellant May Bring This Action

Nothing in 42 Pa.C.S. § 6503(a) limits who may seek habeas corpus relief on behalf of a detained individual: "an application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this Commonwealth under any pretense whatsoever." The statute places no restriction on who may petition on another's behalf in the private detention context;¹³ the phrase "on behalf of" has not been construed to impose any limitations on the identity of the petitioner.¹⁴ That conclusion accords with the traditional

¹³ In its opposition to Appellees' MTD below, Appellant squarely refuted the contention that a "significant relationship" is required in this case. The opposition brief explained that: (a) *Whitmore's* "significant relationship" dicta has never been adopted as a standing requirement in habeas corpus proceedings outside the Post-Conviction Relief Act ("PCRA") context; and (b) child custody cases do not establish that Appellant must maintain a "significant relationship" with the elephants to possess standing. (Opp'n pp. 18-20; R. 496a-498a.) In replying to the opposition, Appellees largely sidestepped that analysis, asserting instead that *Whitmore's* "next friend" requirement should nevertheless apply because as a matter of "public policy," it purportedly governs federal habeas corpus practice and PCRA procedure. (Reply p. 7; R. 514a.) To support that proposition, Appellees cited a federal habeas corpus practice guide and a federal non-habeas copyright case involving a monkey who took a selfie. But this case concerns the Pennsylvania common law of habeas corpus in the private detention context, not federal statutory habeas procedure, not federal copyright law, and certainly not PCRA proceedings. (Reply p. 8; R. 515a.)

¹⁴ In construing New York's similar habeas corpus statute, N.Y. C.P.L.R. § 7002(a), a trial court held that the NhRP had standing to seek habeas relief on behalf of two chimpanzees. *Nonhuman*

common law rule, effective for centuries throughout English-speaking jurisdictions, that third parties may seek habeas corpus relief on behalf of unrelated individuals restrained of their liberty. As Professor Halliday explains:

Anyone could tell a story about someone else to touch off the writ's issuance. . . . [A]ny person, regardless of his or her social standing, could tell a story to justify the court's concern that it should learn more about a person's confinement by anyone, anywhere. Who told the story mattered little, if at all.

PAUL HALLIDAY, *HABEAS CORPUS: FROM ENGLAND TO EMPIRE* 45-46 (Harv. U. Press 2010). *See* II HALSBURY'S LAWS OF ENGLAND, § 1476, p. 783 (4th ed. 1976) ("Any person is entitled to institute proceedings to obtain a writ of habeas corpus for the purpose of liberating another from an illegal imprisonment.").¹⁵

Furthermore, the Pennsylvania Supreme Court's decision in *Respublica v. Betsey*, 1 Dall. 469 (1789), illustrates that a detainee's status as a legal "person" has no bearing on whether a habeas corpus petition can be maintained on that detainee's behalf. There, the Supreme Court allowed a habeas corpus action to proceed on

Rights Project, Inc. ex rel. Hercules & Leo v. Stanley, 49 Misc.3d 746, 755-56 (N.Y. Sup. Ct. 2015) ("As the statute places no restriction on who may bring a petition for habeas on behalf of the person restrained, and absent any authority for the proposition that the statutory phrase 'one acting on his behalf' is modified by a requirement for obtaining standing by a third party, petitioner has met its burden of demonstrating that it has standing.").

¹⁵ *See also* JUDITH FARBEY ET AL., *THE LAW OF HABEAS CORPUS* 237-38 (3d ed. 2011) (Where "a prisoner is being held in circumstances which do not allow for recourse to the courts," "an application from a third party will be entertained where it is shown . . . that the prisoner is so confined as to be unable to initiate proceedings."); ROLLIN C. HURD, *A TREATISE ON THE RIGHT OF PERSONAL LIBERTY, AND ON THE WRIT OF HABEAS CORPUS* 203 (1876) ("[N]o legal relation is required to exist between the prisoner and the person making the application."); (Petition ¶ 93 n.90; R. 48a-49a) (citing cases).

behalf of an enslaved woman named Betsey. As an enslaved woman, Betsey possessed few, if any, legally enforceable rights and certainly could not have maintained the action in her own name. In other words, she was not a “person” for purposes of habeas corpus when the action was brought on her behalf. Yet the Court permitted her attorney to seek judicial recognition of her right to liberty, issued the writ, and ultimately resolved the case in favor of liberty—thereby making her a “person” for purposes of the writ. *Betsey* thus illustrates one of the Great Writ’s foundational principles: the identity, status, or legal capacity of the detainee does not determine whether a court may entertain a habeas petition brought on that detainee’s behalf. Whether the detainee ultimately possesses the right asserted, and is therefore a legal “person” for purposes of habeas corpus, is a separate merits question. “Put more anachronistically, what modern law would call ‘standing’ was simply not an issue. Subject status, or the lack of it, points more vividly than any other factor to the absence of concern about the legal nature of the detainee using habeas corpus.” HALLIDAY at 208. Accordingly, that Angeline, Savanna, Tasha, Victoria, and Zuri are elephants has no bearing on Appellant’s standing to seek the writ on their behalf.¹⁶

¹⁶ Judge Jenny Rivera recognized the same when she wrote, “the writ has long been available to those whose humanity was never fully recognized by law.” *Breheny*, 38 N.Y.3d at 630 (Rivera, J., dissenting). She explained in detail that a detainee’s status as a legal “person” was immaterial to whether another could seek habeas corpus relief on that detainee’s behalf:

An African enslaved by whites was mere “chattel” property without rights of self-determination, but our Court, and others of this state, recognized that the writ still applied within this framework of legal white supremacy. When women were legally

(2) Standing Is a Threshold Inquiry Separate from the Merits

“Standing is a threshold issue and must be resolved before proceeding to the merits of the underlying action.” *Interest of K.N.L.*, 284 A.3d 121, 137 (Pa. 2022); *Interest of O.E.C.-A.*, 331 A.3d 949, 954 (Pa. Super. Ct. 2025) (same). The lower court’s conclusion that Appellant lacked standing because the elephants are not “persons” effectively and improperly required Appellant to prove the ultimate merits question before permitting the action to proceed.

Properly understood, the habeas corpus inquiry in this case involves four distinct analytical stages. First, the court determines the petitioner’s standing to invoke the writ on behalf of a detainee restrained of their liberty. 42 Pa.C.S. § 6503(a) (authorizing an application for habeas corpus to be brought “by or on behalf of any person restrained of their liberty . . . under any pretense whatsoever”).

subservient to their husbands, subject to violence without legal recourse, women could seek relief under the writ in common-law courts, even though, under the dominant patriarchal legal system, they were denied the full rights granted to men and were absolved of certain legal duties. When certain Indigenous people sought to contest the legality of their arrest, following an attempted return to their traditional homelands, the writ of habeas corpus permitted them to secure their liberty—notwithstanding the federal government’s argument that Native Americans were not “persons” under the law. . . . If an enslaved human being with no legal personhood, a Native American tribal leader whom the federal government argued could not be considered a person under law, a married woman who could be abused by her husband with impunity, a resident of Puerto Rico who is a United States citizen deprived of full rights because of Puerto Rico’s colonial status, and an enemy combatant as defined by the federal government can all seek habeas corpus relief, so can an autonomous nonhuman animal.

Id. at 630-31 (citations omitted).

Second, the court determines whether the petition establishes a prima facie case warranting the issuance of an OSC and a resulting return followed by a merits hearing. *Id.* at §§ 6502, 6504. Third, after the merits hearing, the court determines whether the detainee possesses the asserted right to liberty protected by habeas corpus. If the court recognizes that right, the detainee necessarily qualifies as a “person” for purposes of habeas corpus. Fourth, the court determines whether the challenged confinement violates that right and is therefore unlawful. If it does, release from that confinement is required.

The lower court collapsed these distinct inquiries into one. Rather than determine whether Appellant could invoke the writ on the elephants’ behalf and whether the Petition established a prima facie case warranting a merits hearing, the court proceeded directly to the ultimate merits question and held that elephants are not “persons” entitled to habeas corpus relief. In doing so, it applied erroneous standing and prima facie inquiries and prematurely resolved the merits, thereby committing reversible error.¹⁷

B. The Lower Court Erred by Departing from the Great Writ’s Historical Application When It Failed to Assume (Without Deciding) that Angeline, Savanna, Tasha, Victoria, and Zuri Could Be “Persons” for Purposes of Habeas Corpus Relief

¹⁷ Because standing is a question of law over which this Court exercises plenary, de novo review, the lower court’s erroneous determination that Appellant lacked standing independently warrants reversal. *Budai v. Country Fair, Inc.*, 296 A.3d 20, 24 (Pa. Super. Ct. 2023).

The lower court's premature personhood analysis—"whether the term 'person' extends to nonhumans . . . specifically in this case, elephants" (Tr. pp. 55-56; R. 580a-581a)—conflicts with the historical function of the Great Writ. As discussed above, prior judicial recognition of legal personhood is not a threshold prerequisite to issuance of an OSC. To determine whether a petition establishes a prima facie case warranting issuance of an OSC and a subsequent merits hearing, the court must look to the accompanying evidence as informed by the historical application of the writ.

A habeas corpus petition establishes a prima facie case for relief when it "specifically aver[s] facts which, if true, would entitle the relator to an award of a writ of habeas corpus and a hearing thereon." *Balsamo*, 417 Pa. Super. at 40. "A habeas corpus court, in determining whether a petition for a writ requires a hearing, must accept as true all allegations of fact contained in the petition which are non-frivolous, specific, and not contradicted by the record, even though those allegations may [later] be controverted." *Myers*, 423 Pa. at 4 (citing cases). "If accepting the petitioner's allegations as true the writ would issue, then it is incumbent upon the court to hold a hearing affording the petitioner the opportunity to establish the truth of his allegations." *Id.*

The lower court failed to apply that standard. The Expert Declarations are specific, un rebutted, and plainly non-frivolous. They establish that Angeline,

Savanna, Tasha, Victoria, and Zuri are autonomous and extraordinarily cognitively complex individuals who suffer in captivity. Accepting those allegations as true, as *Myers* requires at the pleading stage, and considering the writ’s historical application in cases involving detainees whose status as legal “persons” had not yet been recognized, the lower court should have assumed (without deciding) that the elephants could possess the common law right to bodily liberty protected by habeas corpus and that their confinement may violate that right. The lower court’s ultimate task—determining whether the Petition proved the elephants were entitled to relief—must be resolved upon a full evidentiary record after a merits hearing, not at the pleading stage.

That approach accords with the historical function of the Great Writ, which has long been used to challenge the confinement of individuals whose entitlement to liberty was disputed and who were not “persons” for purposes of habeas corpus. In the landmark case of *Somerset v. Stewart*, 1 Lofft 1 (KB 1772), Lord Mansfield of the King’s Bench recognized that counsel for the enslaved man James Somerset had made a *prima facie* case establishing the unlawfulness of Mr. Somerset’s confinement.¹⁸ Undeterred by the fact that Mr. Somerset lacked the legal right to bodily liberty and therefore was not a “person” for purposes of habeas corpus under

¹⁸ Available at: <http://bit.ly/3jpLmkH>. *Somerset* is part of Pennsylvania common law. *Kauffman v. Oliver*, 10 Pa. 514, 517 (1849).

prevailing law, Lord Mansfield nevertheless issued the writ requiring Mr. Somerset's captor to justify his detention. In other words, unlike the court below, Lord Mansfield did not dismiss a habeas corpus petition because the detainee's claimed right to bodily liberty and corresponding legal personhood had not yet been judicially recognized. Instead, he assumed (without deciding) that Mr. Somerset could possess the asserted right and then required the jailer to justify the confinement.

The historical significance of *Somerset* was not merely its outcome, but the court's willingness to entertain the claim at all. As Professor Halliday explains:

[T]he fact of the writ's issuance was of the first importance. King's Bench issued the writ by reasoning not from precedents, but from the writ's central premise: that it exists to empower the justices to examine detention in all forms. If the justices had any doubts about the propriety of doing so for a slave, they could look back to more than a century of novel uses found for the writ by the same process of reasoning that radiated from this core proposition. This way of conceiving and using habeas corpus has enabled the court to repeatedly explore detention situations in which there were [even] no alleged wrongs.

HALLIDAY at 176.

The now-Chief Judge of the New York Court of Appeals echoed Professor Halliday when he paid homage to the writ's extraordinary nature in a previous case brought by Appellant: "It [wa]s against that long-entrenched background of legally sanctioned slavery that the courts of England and the United States worked, through the Great Writ, to secure liberty for those deemed chattel." *Breheny*, 38 N.Y.3d at

592 (Wilson, J., dissenting). History thus confirms that habeas corpus has never turned on the detainee already possessing fully recognized legal rights before a court may inquire into the legality of the detention.

New York trial courts have issued habeas corpus OSCs to inquire into the detention of nonhuman animals without first determining if the animals were ultimately “persons.” (Petition ¶¶ 111-14; R. 56a-58a); *Nonhuman Rights Project, Inc. ex rel. Hercules & Leo v. Stanley*, 49 Misc.3d 746, 748 (N.Y. Sup. Ct. 2015) (“Given the important questions raised here, I signed petitioner’s order to show cause, and was mindful of petitioner’s assertion that ‘the court need not make an initial judicial determination that [chimpanzees] Hercules and Leo are persons in order to issue the writ and show cause order.’”); Mallory Diefenbach, *Orleans County issues first habeas corpus on behalf of elephant*, THE DAILY NEWS (Nov. 21, 2018), <https://bit.ly/3AwkCWV> (“[T]he Orleans County Supreme Court issued a habeas corpus order on behalf of an elephant and scheduled a hearing to determine whether she should be released from her imprisonment in the Bronx Zoo.”).¹⁹

Recently, Justice Barbara Jaffe (ret.) reflected on her decision to issue the first habeas corpus OSC in United States history on behalf of nonhuman animals.²⁰ That

¹⁹ Orleans County Supreme Court Order available at: <https://bit.ly/4aYd0kV>.

²⁰ Barabara Jaffe, *Judicial Courage?*, FULCRUM (May 22, 2026), <https://thefulcrum.us/rule-of-law/judicial-courage-nonhuman-rights-project-chimpanzees>.

order gave Appellant “a chance to be heard on their application for a writ of habeas corpus on behalf of two chimpanzees being held at a research lab.”²¹ Although her ruling “attracted worldwide attention, most of which was respectful,” it also prompted satire from those who suggested she “would next grant chimpanzees voting rights,” or “be the first judge to perform marriage ceremonies for all kinds of animals.”²² Justice Jaffe observed that “[f]ear inspires irrationality and nervous jocularity” and noted that those “unfamiliar with American history” may overlook that the writs filed on behalf of enslaved humans were likewise dismissed because they were not considered “persons.”²³ Justice Jaffe explained that “human beings

²¹ *Id.*

²² *Id.*

²³ *Id.* Likewise, those unfamiliar with local history may overlook that Indigenous nations with historical ties to Pennsylvania, including the Seneca and Shawnee, have long recognized nonhuman animal personhood. John Mohawk, a member of the Turtle Clan of the Seneca Nation, explained that many Indigenous cultures regard nonhuman animals as “peoples” who have “an equal share in this planet,” “have the right to a continued existence,” and “have the right to live as animals.” John Mohawk, *Animal Nations Right to Survive*, 2 DAYBREAK, Summer 1988, available at: <https://blogs.nwic.edu/briansblog/files/2015/04/Animal-Nations-Right-to-Survive.pdf>. Chief Ben Barnes of the Shawnee Tribe described animals as “brothers and sisters” and emphasized that “[w]e are not anthropomorphizing, there are our people.” Chief Ben Barnes, *The Intersection of Language, Law, and Sovereignty: A Shawnee Perspective*, 34 COLO. ENV’T L.J. 17, 19-20 (2023). Similar recognition also appears elsewhere: Anthropologist Anne-Christine Hornborg, drawing on her study of Indigenous American cultures, concluded that from an Indigenous perspective, “it is better to talk about personhood as the common essence of both animals and humans. A human is a human, a beaver is a beaver, but they are both persons.” ANNE-CHRISTINE HORNBERG, *MI’KMAQ LANDSCAPES: FROM ANIMISM TO SACRED ECOLOGY* 22 (1st ed. 2008); *see also* VINE DELORIA JR., *GOD IS RED: A NATIVE VIEW OF RELIGION* 87-89 (30th Anniversary ed. 2003) (“Plains Indians considered the buffalo as a distinct people, [and] Northwest Coast Indians regarded the salmon as a people.”).

were once treated as nonpersons” and posed a critical question: if “human beings were once considered nonpersons only later to be considered persons, why can’t a nonhuman be considered a person for purposes particular to it?”²⁴ She concluded that judges are “ethically obligated to at least consider whether we should treat animals in a manner consonant with their abilities,” including whether the protections of the Great Writ should extend to autonomous nonhuman beings, lest “future generations . . . denigrate us as some now denigrate those who upheld as legal the African slave trade.”²⁵

Justice Jaffe’s reflection underscores the error in treating personhood as a threshold barrier to judicial inquiry. Habeas corpus has always functioned as a mechanism for determining whether a confined individual possesses a legally cognizable claim to liberty, not as a tool for foreclosing that inquiry at the outset. Centuries of habeas corpus jurisprudence demonstrate that a court need not first recognize a detainee as a “person” before permitting a habeas corpus matter to proceed to a merits hearing. The lower court therefore departed from the historical application of the Great Writ by refusing to assume (without deciding) that Angeline, Savanna, Tasha, Victoria, and Zuri could possess the common law right to bodily

²⁴ Jaffee, *supra* note 20.

²⁵ *Id.*

liberty and be “persons” for purposes of habeas corpus relief. Whether the elephants ultimately possess that right should have been reserved for a determination on a full evidentiary record following a merits hearing.

C. The Lower Court Erred When It Applied Statutory Interpretation and Irrelevant, Nonbinding Authority to Resolve the Question of Whether Angeline, Savanna, Tasha, Victoria, and Zuri are “Persons” Under Pennsylvania Common Law

The lower court committed a purely legal error when it treated the question of whether Angeline, Savanna, Tasha, Victoria, and Zuri are “persons” for purposes of habeas corpus relief as a question of statutory interpretation rather than one governed by the common law.²⁶ (Tr. pp. 54-55; R. 579a-580a); (Petition ¶¶ 138-147; R. 67a-71a) (explaining why entitlement to the Great Writ is determined by a common law analysis). It compounded that error by relying on irrelevant out-of-state authority instead of determining whether Pennsylvania common law should evolve to recognize the elephants’ common law right to bodily liberty.

The lower court’s statutory analysis is contrary to Pennsylvania precedent recognizing that habeas corpus is a common law remedy. This Court and the Pennsylvania Supreme Court have repeatedly recognized that the power to grant habeas corpus relief derives from the common law, not statute. As this Court has

²⁶ See, e.g., *People v. Jade*, 365951, 2024 WL 4595493, at *4 n.7 (Mich. Ct. App. Oct. 28, 2024), *appeal granted*, 20 N.W.3d 867 (Mich. 2025) (“Although the present matter does not present a constitutional issue, issues of nonconstitutional common law are still reviewed de novo.”).

explained: “The power to grant habeas corpus relief is innate in our trial courts, because it arises from the ancient common law, not statute.” *Commonwealth v. Burke*, 261 A.3d 548, 553 (Pa. Super. Ct. 2021). Likewise, the Pennsylvania Supreme Court has held that statutory habeas provisions do not supplant the common law writ: “[T]he Act of 1937 did not displace the common law writ of habeas corpus ad subjiciendum. . . . The common law writ is even more extensive in its scope than that authorized by the Habeas Corpus Act of February 18, 1785.” *Fair*, 394 Pa. at 278; *see also Williamson v. Lewis*, 39 Pa. 9, 29 (1861) (“Let us now notice the common law *habeas corpus ad subjiciendum*. It has a much broader scope than that form of it which is secured by the Habeas Corpus Act; for it may issue in all sorts of cases where it is shown to the court that there is probable cause for believing that a person is restrained of his liberty unlawfully or against the due course of law.”).²⁷

²⁷ Pennsylvania law is clear that the state’s habeas corpus act, Chapter 65, regulates venue and procedure only—not the substantive scope of the writ. As the Pennsylvania Supreme Court explained with respect to the 1951 predecessor to Chapter 65, the statute “deals only with venue and procedure,” amounting to “merely minor regulations of procedure.” *Commonwealth ex rel. Stevens v. Myers*, 419 Pa. 1, 17 n.20 (1965). Therefore, Chapter 65 “in no way restricts judicial freedom to expand the common law confines of the writ” and “undertakes no change of the writ’s character as developed by—or developable under—the common law.” *Id.* The Court went further, emphasizing that the Great Writ in Pennsylvania “is not frozen into statute but, rather, being moldable to the exigencies of the times, is left to the development of the common law.” *Id.* at 18. In short, Chapter 65 governs how the writ is invoked, not who may invoke it.

The constitutional safeguard afforded habeas corpus in Pennsylvania confirms what *Burke*, *Fair*, and *Williamson* recognize: The writ derives from the common law, is preserved as a common law remedy, and its substantive scope cannot be curtailed by statutory enactments. Pennsylvania's Suspension Clause guarantees that "the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it." Pa. Const. art. I, § 14. Because the writ is constitutionally protected, statutes "do not confer any power on the courts to grant habeas corpus relief the legislature might annul." *Burke*, 261 A.3d at 553. Indeed, the Great Writ stands "above the sphere of ordinary legislation." *Commonwealth ex rel. Bressler v. Gane*, 3 Grant 447, 450 (Pa. 1863). Consistent with that principle, the Pennsylvania Supreme Court has explained that the General Assembly may not "encumber access to habeas corpus in a fashion which results in a 'practical deprivation' of that right." *Commonwealth ex rel. Swann v. Shovlin*, 423 Pa. 26, 34 (1966) (citation omitted).

The lower court's conclusion that statutes control the meaning of "person" for purposes of habeas corpus thus turns Pennsylvania habeas jurisprudence on its head. It treats the writ as a legislative creation subject to statutory limitation rather than a constitutionally protected common law remedy whose scope is determined in accordance with common law principles and values and cannot be curtailed by legislation. Accordingly, the lower court erred in concluding that the Statutory

Construction Act (“SCA”) has “some application in this context.” (Tr. p. 55; R. 580a.) That conclusion fails for three reasons: (1) whether the elephants are “persons” for purposes of habeas corpus must be resolved under the common law; (2) the SCA does not apply by its own terms; and (3) even if the SCA applied, the lower court misinterpreted it.

First, because habeas corpus is a common law remedy, the question is not whether elephants fit within a statutory definition of “person.” The question is whether Angeline, Savanna, Tasha, Victoria, and Zuri may avail themselves of the protections of the common law writ. In other words, do they possess the common law right to bodily liberty protected by habeas corpus and therefore are “persons” for purposes of the Great Writ? Answering that question requires a judge to engage with the common law considerations detailed in the Petition, not rely on statutory definitions, judicially imposed definitions of “natural person,” or dictionary definitions. (Petition ¶¶ 138-143; R. 67a-70a) (explaining why this case is a common law matter); (Petition ¶¶ 183-232; R. 87a-111a) (discussing relevant common law considerations).²⁸

²⁸ In *Nonhuman Rights Project, Inc. ex rel. Tommy v. Lavery*, 31 N.Y.3d 1054, 1057 (N.Y. 2018) (Fahey, J., concurring), Judge Eugene Fahey (ret.) recognized that the proper inquiry in cases like this is not whether a nonhuman animal satisfies a preexisting definition of “person,” but whether the being possesses a liberty interest protected through habeas corpus. As Judge Fahey explained in evaluating similar questions on behalf of a chimpanzee:

The better approach in my view is to ask not whether a chimpanzee fits the definition of a person or whether a chimpanzee has the same rights and duties as a

Second, by its own terms, the SCA definitions do not apply to cases in which “the context clearly indicates otherwise.” 1 Pa.C.S. § 1991. The common law context of habeas corpus clearly indicates otherwise. Chapter 65 does not define the term “person,” and importing the SCA’s definition into the habeas context would improperly restrict the judiciary’s ability to develop the common law writ and undermine precedent recognizing that the writ must remain sufficiently flexible to be molded “to suit the exigencies of any particular case.” *Fair*, 394 Pa. at 285 (citation omitted). Such a restriction would be particularly untenable in Pennsylvania, where habeas corpus is a constitutionally protected common law remedy that cannot be curtailed by statutes. *See* Pa. Const. art. I, § 14; *Burke*, 261 A.3d at 553.

Pennsylvania courts have repeatedly recognized that the SCA’s definition of “person” is not controlling where the context indicates otherwise. Courts have declined to apply the default definition even to entities expressly included within the

human being, but instead whether he or she has the right to liberty protected by habeas corpus. That question, one of precise moral and legal status, is the one that matters here.

Id. The concurrence further suggested that courts should assess the “intrinsic nature” of the beings before them, rather than rely on categorical exclusions based on species membership. *Id.* The same principle applies here. The question is not whether Angeline, Savanna, Tasha, Victoria, and Zuri satisfy a statutory or dictionary definition of “person,” but whether the common law should recognize their interest in bodily liberty as one protected by the Great Writ. At a minimum, that question warranted judicial consideration on a developed record rather than dismissal at the pleading stage based on a threshold determination that elephants can never invoke the Great Writ.

SCA, as well as to humans themselves. *See Frank Burns, Inc. v. Interdigital Commc'ns Corp.*, 704 A.2d 678, 681 (Pa. Super. Ct. 1997) (holding that “person” did not include corporations, despite the SCA’s definition, because the context indicated otherwise); *Doe v. Franklin Cnty.*, 644 Pa. 1, 23 (2017) (holding that the undefined term “person” in the Uniform Firearms Act did not include a county sheriff because the context indicated otherwise). The lower court therefore erred in treating the SCA’s definition of “person” as dispositive rather than first asking whether the common law context of habeas corpus requires a different analysis.

Third, not only did the court erroneously apply the SCA, but it also misinterpreted the statute itself. The SCA does not define “person” as a human, nor does it exclude elephants. Instead, the court relied on its own judicially imposed definition of “[n]atural person” and citations to *Merriam-Webster* to reach a conclusion the statutory text itself does not support. (Tr. pp. 55-56; R. 580a-581a.) The SCA defines “person” to “[i]nclude[] a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.” 1 Pa.C.S. § 1991. As Pennsylvania courts have recognized, the “term ‘include’ is to be dealt with as a word of enlargement and not limitation.” *Braun v. Wal-Mart Stores, Inc.*, 24 A.3d 875, 963 (Pa. Super. Ct. 2011) (cleaned up). Indeed, “[a] term whose statutory definition declares what it ‘includes’ is more susceptible to extension of meaning by

construction than where the definition declares what a term ‘means.’ . . . It, therefore, conveys the conclusion that there are other items includable, though not specifically enumerated.’” *Id.* (citation omitted). Black’s Law Dictionary similarly explains that “including” typically denotes a partial, rather than exhaustive, list. *Include*, BLACK’S LAW DICTIONARY (12th ed. 2024).

Given the General Assembly’s use of the term “includes,” the SCA’s definition of “person” cannot reasonably be read as excluding all entities not specifically enumerated, including elephants. Moreover, nine of the ten entities expressly included within the definition of “person” are nonhuman entities. The sole entity expressly excluded is “the Commonwealth,” not elephants or nonhuman animals more broadly. *See MFW Wine Co. v. Pa. Liquor Control Bd.*, 276 A.3d 1225, 1233 (Pa. Commw. Ct. 2022) (“SCA’s definition of *person* excludes only ‘the Commonwealth.’” (citation omitted)). The statutory definition therefore provides no basis for the lower court’s conclusion that “person” is limited to humans. (Tr. p. 55; R. 580a.) Nor does it support Appellees’ assertion that “‘person’ is clearly understood to be defined as an individual human being.” (MTD p. 3; R. 458a.) Appellant does not dispute that humans are “persons.” The question is not whether humans are included, but whether elephants are excluded. They are not.

Nevertheless, whether elephants fall within the SCA’s definition of “person” does not answer the question before this Court. Because habeas corpus is a common

law remedy, the dispositive question is whether the common law should recognize Angeline, Savanna, Tasha, Victoria, and Zuri’s right to bodily liberty protected by habeas corpus. That question cannot be resolved by importing statutory definitions into a common law inquiry. It should have been reserved for a determination on the merits following the issuance of an OSC, not resolved at the pleading stage through statutory interpretation.

The lower court further erred by relying on nonbinding authority from other jurisdictions to resolve a question governed by Pennsylvania common law: “It must be noted that even if statutory framework is ignored, legal authority in the common law context in many jurisdictions similarly has not extended the category of persons beyond human beings.” (Tr. p. 56; R. 581a.) Whatever persuasive value such decisions may have, they could not substitute for the court’s independent obligation to determine whether Pennsylvania common law should evolve to recognize the elephants’ right to bodily liberty.²⁹

In other words, whether the writ extends to Angeline, Savanna, Tasha, Victoria, and Zuri is a question that Pennsylvania courts must answer under Pennsylvania common law, not by deferring to historical limitations or the decisions

²⁹ To the extent the lower court looked to other jurisdictions for guidance on the common law, it should have considered the dissenting opinions in *Breheny*, 38 N.Y.3d at 577-627 (Wilson, J., dissenting); *id.* at 627-42 (Rivera, J., dissenting). Together spanning nearly seventy pages, those opinions offer the most thorough judicial examinations ever undertaken on whether an elephant may possess a common law right to liberty.

of other jurisdictions. Indeed, the Pennsylvania Supreme Court has expressly rejected the notion that habeas corpus should be constrained by historical limitations, explaining: “We do not believe that mere historical considerations, now outdistanced by modern conditions, should be allowed to control the scope of a writ which in this state is clearly adaptable to the exigencies of the times when the writ is used in a new class of cases.” *Commonwealth ex rel. Stevens v. Myers*, 419 Pa. 1, 16 (1965). Moreover, the lower court’s reliance on “legal authority in the common law context in many jurisdictions” did not answer the question before it. (Tr. p. 56; R. 581a.) Instead, it sidestepped the dispositive inquiry: whether Pennsylvania common law should evolve to recognize the elephants’ right to bodily liberty.³⁰

At bottom, the lower court’s analysis assumes that the absence of Pennsylvania precedent for recognizing a right is a sufficient reason to deny its existence, but the common law of this Commonwealth proves otherwise. Pennsylvania courts have long recognized that “the novelty of an asserted right and lack of common-law precedent are no reasons for denying its existence.” *K.H. ex rel. H.S. v. Kumar*, 122 A.3d 1080, 1096 n.7 (Pa. Super. Ct. 2015) (cleaned up); see *Marion v. Bryn Mawr Trust Co.*, 288 A.3d 76, 87 (Pa. 2023) (“[T]here is not a rule of the common law in force today that has not evolved from some earlier rule of

³⁰ (Petition ¶¶ 164-167; R. 77a-79a) (the Great Writ can be used to remedy the unjust deprivation of liberty for Angeline, Savanna, Tasha, Victoria, and Zuri).

common law, gradually in some instances, more suddenly in others, leaving the common law of today when compared with the common law of centuries ago as different as day is from night.” (citation omitted)). Those principles foreclose the lack-of-precedent premise underlying the lower court’s decision: ““One of the great virtues of the common law is its dynamic nature that makes it adaptable to the requirements of society at the time of its application in court.”” *Hack v. Hack*, 495 Pa. 300, 319 (1981) (citation omitted).

The lack of authority explicitly recognizing elephants as “persons” for purposes of habeas corpus is unsurprising because courts do not resolve novel common law questions until a litigant presents them for adjudication. No Pennsylvania court has previously been asked to decide whether autonomous, extraordinarily cognitively complex individuals of a nonhuman species may invoke the protections of the Great Writ. When the lower court concluded that “the protections of habeas corpus may not be extended to nonhumans” based on its review of existing authority, it effectively treated the lack of precedent for recognizing such a right as dispositive to whether the right could exist. (Tr. p. 56; R. 581a.) Instead, the lower court should have been guided by this Court’s reasoning in *Burke*, and “reaffirm[ed] the principles of justice dating back to *Magna Carta* . . . and the ancient line of unbroken precedents applying them.” 261 A.3d at 554. Had the lower court applied applicable common law principles, and adhered to the Great

Writ's historical precedents, it would have recognized that the relevant inquiry is not whether a right has previously been recognized, but whether the common law should recognize it now.³¹

The flaw in the lower court's reasoning becomes apparent when that reasoning is taken to its logical conclusion. If the absence of precedent were a sufficient reason to foreclose relief, the common law could never evolve, and habeas corpus could never be adapted to new circumstances. Yet Pennsylvania law requires precisely the opposite approach: "[T]he common law requires that each time a rule of law is applied it be carefully scrutinized to make sure that the conditions and needs of the times have not so changed as to make further application of it the instrument of injustice."³² *Hack*, 495 Pa. at 319 (citation omitted); see also *Soffer v. Beech*, 487 Pa. 255, 266 (1979) (recognizing that a common law rule "that does not meet current societal and jurisprudential needs" is "an unfair barrier to justice" and must be abolished); *Commonwealth v. Gibbons*, 9 Pa. Super. 527, 536 (1899) ("Old forms

³¹ *Loughner v. Allegheny Cnty.*, 436 Pa. 572, 581 (1970) (Pomeroy, J., dissenting) ("Growth and flexibility no less than stability and predictability are essential to any living legal system, and the courts are equally charged with preserving both elements and with accommodating their occasionally competing demands.").

³² In *Breheny*, Chief Judge Wilson recognized that "[s]ociety's determination as to whether elephants have a right to be free of oppressive confinement, which they may test through habeas corpus, is not likely to be the same today as it was 100 years ago." 38 N.Y.3d at 588 (Wilson, J., dissenting). That is because "[a]t its core," these cases are "about whether society's norms have evolved such that elephants like Happy should be able to file habeas petitions to challenge unjust confinements." *Id.*

will not entirely suit new classes of cases, but must be moulded to suit them.” (citation omitted)). Thus, the lack of precedent recognizing a right does not answer whether the right should be recognized. It merely confirms that the court has been presented with a novel common law question requiring the exercise of judicial consideration based on societal needs and justice. That is precisely the task Pennsylvania courts are entrusted to carry out when confronted with a novel common law claim.³³

That conclusion is particularly compelling in the habeas corpus context. As discussed *supra*, the Pennsylvania Supreme Court has repeatedly emphasized that the Great Writ is not static. Rather, it may be “molded to suit the exigencies of any particular case,” *Fair*, 394 Pa. at 285, and remains “adaptable to the exigencies of the times when the writ is used in a new class of cases.” *Myers*, 419 Pa. at 16. The absence of Pennsylvania authority extending the Great Writ’s protections to elephants did not relieve the lower court of its obligation to evaluate this case under the common law to determine if the law should evolve to recognize Angeline, Savanna, Tasha, Victoria, and Zuri’s right to liberty. Judicially imposed definitions, dictionary definitions, and out-of-state decisions are irrelevant to the question of whether Pennsylvania common law, informed by contemporary understandings of

³³ (Petition ¶¶ 183-232; R. 87a-111a) (changing social norms, scientific advancements, justice, liberty, and equality compel the recognition of Angeline, Savanna, Tasha, Victoria, and Zuri’s common law right to bodily liberty).

autonomy, liberty, equality, and justice, should recognize the elephants' right. *Merriam-Webster* cannot answer that question, and the lower court never undertook the common law analysis necessary to do so. Accordingly, the common law question presented by this case remains unanswered.

III. Whether Angeline, Savanna, Tasha, Victoria, and Zuri Have the Common Law Right to Bodily Liberty is a Judicial Question, Not One for the General Assembly

The lower court concluded that Appellant's arguments sought "an extension of existing law or the establishment of new law" and that such "leaps" are "best left [to] the General Assembly." (Tr. pp. 56-57; R. 581a-582a.) But the common law has always required courts to confront and resolve questions of precisely this nature. The question before this Court is whether Pennsylvania common law should recognize that Angeline, Savanna, Tasha, Victoria, and Zuri possess the common law right to bodily liberty protected by habeas corpus. Answering that question does not require engagement with the General Assembly, it requires that a court evaluate the intrinsic nature of the elephants themselves.

The extensive scientific record concerning elephant behavior and cognition establishes that these elephants are autonomous and extraordinarily cognitively complex individuals. Because autonomy lies at the foundation of bodily liberty, and habeas corpus exists to protect bodily liberty, determining whether autonomous beings possess that right falls squarely within the traditional province of the

judiciary. That conclusion follows naturally from the nature of the Great Writ itself. As the Pennsylvania Supreme Court explained long ago, “for the meaning of the term habeas corpus resort may unquestionably be had to the common law.” *Gane*, 3 Grant at 449. Indeed, habeas corpus stands as “an indefensible privilege, above the sphere of ordinary legislation,” *id.*, and exists precisely because “[n]o matter how or where the chains of his captivity were forged, the power of the judiciary of this State is adequate to crumble them to dust if an individual is deprived of his liberty contrary to the law of the land.” *Id.* at 445 (citation omitted). Whether Angeline, Savanna, Tasha, Victoria, and Zuri possess a common law right to bodily liberty is therefore not a legislative question. It is a judicial one.³⁴

The lower court’s conclusion cannot be reconciled with Pennsylvania’s understanding of the common law or the judiciary’s role. Pennsylvania courts do not merely apply common law principles, they develop them. As the Pennsylvania Supreme Court has explained: “The genius of the common law has been its responsiveness to changing times. . . . Drawing upon the past, the law must serve—and traditionally has served—the needs of the present.” *Commonwealth v.*

³⁴ The inquiry is also inherently case-specific. Indeed, Chief Judge Wilson described the Great Writ as “Janus-faced,” explaining that “it could do so much, and so little, at once.” *Breheny*, 38 N.Y.3d at 592 (Wilson, J., dissenting) (citation omitted). That duality stems from the writ’s nature as “a procedural tool with a storied history of opportunity for challenging social norms,” yet “one inherently limited by its necessarily case-by-case approach.” *Id.* at 592-93. Accordingly, the incremental, common law-character of the Great Writ means its availability is a judicial question to be resolved on the specific facts presented.

McCusker, 448 Pa. 382, 385 (1972) (citation omitted). Pennsylvania courts also bear responsibility for preserving “the continuing viability of our common law through the reexamination, refinement, and adaptation of older doctrines in light of changed circumstances or in response to sustained and meritorious criticism.” *Loughner v. Allegheny Cnty.*, 436 Pa. 572, 581 (Pomeroy, J., dissenting). Ultimately, the Pennsylvania Supreme Court has recognized that “its equitable powers afford the Court the authority to modify the common law forms of action to the right involved, rather than limiting the authority to testing the right by the forms of action.” *Tincher v. Omega Flex, Inc.*, 628 Pa. 296, 337 (2014).

The question before this Court is not whether the General Assembly has declared or will declare elephants to be “persons” for purposes of habeas corpus. The question is whether Pennsylvania common law should recognize that Angeline, Savanna, Tasha, Victoria, and Zuri possess the right involved: the right to bodily liberty. Determining whether the elephants possess that right falls squarely within the traditional role of this Court: “Unless and until the Legislature intervenes . . . this Court remains charged with the reasoned administration of the common law.” *Schmidt v. Boardman Co.*, 608 Pa. 327, 373-74 (2011).

Having established that the question presented is properly before the judiciary, the inquiry turns to the evidence accompanying the Petition, which demonstrates that Angeline, Savanna, Tasha, Victoria, and Zuri possess the very characteristics that

make bodily liberty meaningful. The Expert Declarations establish that the elephants are self-determining individuals capable of intentional decision-making, planning, problem solving, adapting their behavior to changing circumstances, and exhibiting empathy, grief, and cooperation within complex, multigenerational social groups. They form lifelong social bonds, communicate sophisticated information across vast distances and across generations, and make meaningful choices about where to go, whom to associate with, and how to live their lives. They possess interests that are uniquely their own, and the capacity to direct their own lives through purposeful choice and action. These characteristics are not incidental; they are foundational to—and manifestations of—autonomy. As Appellant explained in the Petition, autonomy is the ability to make meaningful choices about one’s life and to act upon those choices. (Petition ¶ 15; R. 11a-12a.)

For an autonomous being, freedom is not merely relief from physical restraint; it is the ability to determine where to go, whom to associate with, how to spend one’s time, and how to pursue one’s own ends. The right to bodily liberty protects those interests. The deprivation of bodily liberty is most profound when imposed upon a being capable of exercising meaningful choices, which is why the protection of one’s autonomy is *the* most sacred and carefully guarded right under the common law. *In re Fiori*, 543 Pa. 592, 600 (1996) (“More than a century ago, the United States Supreme Court recognized that ‘[n]o right is held more sacred, or is more carefully

guarded, by the common law, than the right of every individual to the possession and control of his own person.”” (citation omitted)). Elephants—like humans—are active participants in their own lives and, when deprived of the ability to exercise their autonomy, suffer profoundly.

That conclusion is directly applicable to the role of habeas corpus, which exists to safeguard autonomy by protecting bodily liberty without concern for species membership.³⁵ The concern of habeas corpus is unjust confinement. Thus, the question before this Court is whether Pennsylvania common law should recognize that autonomous and extraordinarily cognitively complex elephants possess the right to bodily liberty protected by habeas corpus as a natural evolution of the writ. *Gibbons*, 9 Pa. Super. at 533 (the Great Writ “may be moulded to suit the exigencies of the particular case”).

The answer to that question is a resounding yes. Pennsylvania common law must evolve to recognize Angeline, Savanna, Tasha, Victoria, and Zuri as possessors of that right because to deny recognition would require this Court to conclude that a being may be autonomous, self-aware, and capable of forming and pursuing preferential experiences, and yet possess no legally cognizable interest in freedom

³⁵ *Breheny*, 38 N.Y.3d at 628-29 (Rivera, J., dissenting) (“I conclude that history, logic, justice, and our humanity must lead us to recognize that if humans without full rights and responsibilities under the law may invoke the writ to challenge an unjust denial of freedom, so too may any other autonomous being, regardless of species.”).

from confinement. Such a conclusion would sever bodily liberty from the very characteristic that gives it meaning: Autonomy. For the foregoing reasons, neither the common law nor the principles underlying the Great Writ support such a result. Because the evidentiary record establishes that Angeline, Savanna, Tasha, Victoria, and Zuri are autonomous, and thus possess the characteristic that gives the right to bodily liberty meaning, Pennsylvania common law must recognize their right and permit them to invoke the protections of the Great Writ.

CONCLUSION

Because the Petition establishes a prima facie case for relief, Appellant respectfully requests that this Court reverse the order dismissing the Petition and remand with instructions to proceed through established habeas corpus procedure, including issuance of an unqualified OSC, a return certifying the true cause of detention, and a merits hearing. Only after completion of the procedures habeas corpus has long required can the court properly resolve the common law question ultimately presented: whether Angeline, Savanna, Tasha, Victoria, and Zuri possess a common law right to bodily liberty protected by habeas corpus and therefore are “persons” for purposes of that remedy.

Appellant respectfully requests oral argument.

Respectfully submitted,
/s/ Kenneth Cramer-Cohen
Kenneth Cramer-Cohen
— and —

Jake Davis*
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AVERMENT

Pursuant to Pa.R.A.P. 2111(d), no order to file a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered by the trial court.

CERTIFICATE OF COMPLIANCE

Pursuant to Pa.R.A.P. 2135(a)(1), (d), Appellant certifies that this principal brief does not exceed 14,000 words because it is 12,771 words in length, and that pursuant to Pa.R.A.P. 127 this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,
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APPENDIX A

1 These elephants haven't been convicted
2 of anything, so the Post Conviction Relief
3 Act cannot apply. It is the common law writ
4 that governs this case, Your Honor.

5 And finally, the reference to the
6 Naruto case, Your Honor, that is not a habeas
7 corpus case, and we are not trying to make
8 these elephants unwitting pawns in
9 fundraising endeavors or something else, and
10 here's how I can prove that.

11 If respondents agree to transfer the
12 elephants to a place that will allow them to
13 maximize their autonomy, we will drop this
14 case at a moment's notice.

15 Thank you, Your Honor.

16 Any questions? I'm sorry.

17 THE COURT: I don't have any questions.
18 Thank you for your thoughtful arguments
19 today. I'm going to take a 15-minute recess
20 to take a look at some of the highlights that
21 were mentioned and be back out with a
22 decision. Thank you.

23 (Brief recess taken.)

24 THE COURT: Before the Court is
25 respondents' motion to dismiss petition for

1 writ of habeas corpus. The Court does not
2 concur that an analysis of personage must be
3 deferred to a merits based hearing.

4 At issue is whether habeas corpus
5 relief applies to extraordinary nonhumans,
6 elephants, and more specifically several
7 elephants located in Pennsylvania and
8 Somerset counties. This analysis touches on
9 standing, a threshold matter, and on whether
10 a prima facie case exists, also a preliminary
11 issue that the Court may decide as a matter
12 of law.

13 42 Pa.C.S. Section 6501, et seq. --
14 that's 42 Pa.C.S. Section 6501, et seq. -- is
15 the applicable statute addressing habeas
16 corpus relief in Pennsylvania. It expressly
17 states that, quote, "An application for
18 habeas corpus to inquire into the cause of
19 detention may be brought by or on behalf of
20 any person, restrained of his liberty, within
21 this Commonwealth under any pretense
22 whatsoever," end quote.

23 The question that is ripe before this
24 Court is whether the term "person" extends to
25 nonhumans and again, specifically in this

1 case, elephants.

2 Pennsylvania's habeas corpus statute
3 does not define the term "person"; however,
4 it is subject to Pennsylvania's Statutory
5 Construction Act, 1 Pa.C.S. Section 1501, et
6 seq., which applies to every statute enacted
7 by the General Assembly after a certain date
8 including the habeas corpus statute. The
9 Court concludes that the Act has some
10 application even in this context.

11 Section 1991 of the Act states that the
12 term "person," quote, "includes a
13 corporation, partnership, limited liability
14 company, business trust, other association,
15 government entity other than the
16 Commonwealth, estate, trust, foundation, or
17 natural person," end quote.

18 Natural person is not defined, but the
19 adjective "natural" is used to distinguish a
20 living person from the corporate definition
21 of person in Pennsylvania statutory bodies of
22 authority. Additionally, Black's Law
23 Dictionary defines a person as, quote, "a
24 human being" or, quote, "a natural person."

25 Merriam-Webster Dictionary defines a

1 person as a, quote, "human individual" and a,
2 quote, "natural person," end quote, as a,
3 quote, "human being as distinguished from a
4 person (as a corporation created by operation
5 of law)", end quote.

6 It must be noted that even if statutory
7 framework is ignored, legal authority in the
8 common law context in many jurisdictions
9 similarly has not extended the category of
10 persons beyond human beings.

11 The Court's conclusion that an elephant
12 is not a person for purposes of habeas corpus
13 is fatal to the petition. Based on the
14 Court's review of applicable legal authority,
15 the protections of habeas corpus may not be
16 extended to nonhumans. Correspondingly, the
17 petitioners lack standing and are unable to
18 maintain the petition based upon a prima
19 facie inquiry on behalf of nonhumans or
20 elephants.

21 Despite the petitioner's laudable goal
22 in advocating for elephants, certainly
23 remarkable nonhumans, the petition, which is
24 in the nature of an argument for an extension
25 of existing law or the establishment of new

1 law, seek leaps that this Court is unable to
2 make based upon existing legal authority.
3 The Court concludes that this realm is best
4 left the General Assembly.

5 Accordingly, the motion to dismiss is
6 granted, and the hearing scheduled for
7 March 2 is canceled. Thank you for your
8 attention and, again, your thoughtful
9 arguments, everyone.

10 MR. McLANE: Your Honor, may I? Dan
11 McLane.

12 I think it's procedurally important to
13 raise the motion to dismiss in this case was
14 filed before Your Honor by the consent of an
15 NHRP consolidated second case. I believe we
16 should clarify that this order would apply to
17 both matters so that there's no ambiguity
18 that both matters are concluded in these
19 proceedings.

20 Frankly, I think our friends at NHRP
21 would join in that because we wouldn't have a
22 final order then applying to both cases if
23 they seek an appeal. So I think it would be
24 in our interests to clarify that matter
25 today.