

SUPERIOR COURT OF PENNSYLVANIA

377 WDA 2026

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

v.

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

BRIEF OF APPELLEES

Appeal from the Order of the Court of Common Pleas of Allegheny County,
Civil Division, Hon. Mary C. McGinley, Entered on February 12, 2026,
at Docket No. GD-25-010963

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INTRODUCTION

This appeal involves a threshold legal question: are elephants legal persons that are entitled to habeas corpus relief? Whether that question is viewed as an issue of statutory or common law, it is clear that they are not. In fact, no American court has ever held that elephants or any other animal is entitled to habeas corpus relief. That makes sense, because elephants, like all other animals, are consistently regarded as property under both statutory and common law. The NHRP's contrary position would wreak havoc in numerous areas of the law. Because the definition of personhood is a legal issue, the trial court was correct to dismiss the NHRP's habeas petition without considering its lengthy (but irrelevant) declarations and without conducting an evidentiary hearing. This court should affirm.

COUNTER-STATEMENT OF THE QUESTIONS INVOLVED

1. Did the trial court properly determine that elephants are not persons entitled to habeas corpus relief either under Pennsylvania's Habeas Corpus Act or at common law?

(Trial court answer: Yes).

2. Did the trial court properly dismiss NHRP's habeas petition without an evidentiary hearing where (a) NHRP failed to initially establish requisite standing to pursue habeas relief on the elephants' behalf; and (b) NHRP failed to plead a prima facie case of habeas relief?

(Trial court answer: Yes).

COUNTER-STATEMENT OF THE CASE

Nonhuman Rights Project, Inc. ("NHRP") filed its petition "for a common law writ of habeas corpus" ("Petition") in the Allegheny County Court of Common Pleas on October 21, 2025, naming as respondents the Zoological Society of Pittsburgh and Dr. Jeremy Goodman, its President and CEO (together, the "Zoo"). (R. 1a.)¹ NHRP purported to represent five elephants

¹ On December 4, 2025, NHRP filed a separate petition for writ of habeas corpus in the Somerset County Court of Common Pleas, where the International Conservation Center is located, seeking substantially similar relief as in this case. (*See* Consented to Mot. to Coordinate, Filed Jan. 8, 2026.) The Zoo filed a consented-to motion to consolidate in Allegheny County on January 8, 2026, which the trial court granted on January 12, 2026, providing that all proceedings would "be coordinated in the Court of Common Pleas of Allegheny County." (*See* Order, Filed Jan. 12, (Continued...))

located at the Pittsburgh Zoo and, supposedly on their behalf, sought their “release from the custody of the Zoological Society of Pittsburgh, and their confinement at the Pittsburgh Zoo & Aquarium.” (R. 1-2a.) The Petition does not request the elephants’ unconditional release, recognizing that “the elephants cannot be released into the streets of Pittsburgh.” (R. 112a.) Instead, NHRP requests that the elephants be “rewilded or released to an elephant sanctuary[.]” (R. 5a; *see also* R. 112a.)

Although lengthy, the premise of NHRP’s Petition was simple. NHRP insists that it is an “irrational and arbitrary notion that only members of the species *Homo Sapiens* may invoke the protections of the Great Writ [of habeas corpus],” and the elephants “deserve[] protection” even though “they walk on four legs and have trunks[.]” (R. 2-3a.) NHRP acknowledges that it seeks to expand the common law beyond its current limits. (*See, e.g.,* R. 4a (arguing that “it is time for the common law of this state to evolve . . .”).) The Petition includes no allegations establishing a special relationship between NHRP and the elephants

2026.) The trial court’s final order in this case disposed of both matters. (*See* R. 525a, 582-83a.)

or other facts establishing NHRP's entitlement to next-friend standing.

At the same time it filed its Petition, NHRP also filed a Petition for Special and Preliminary Injunctive Relief "enjoining the removal of" two of the elephants "from the Pittsburgh Zoo" to the International Conservation Center, another facility operated by the Zoo. (*See* Pet. for Spec. & Prelim. Injunctive Relief, Filed October 21, 2025.) The trial court denied NHRP's request for an injunction on November 10, 2025, which NHRP does not challenge on appeal. (*See* Order, Filed Nov. 10, 2025.)

The Zoo filed a motion to dismiss NHRP's habeas Petition on December 29, 2025, (R. 450a), and the trial court issued a scheduling order on the motion on January 2, 2026. (R. 471a.) Although the order provided that "[a] Rule is issued upon the Respondents to show cause why the Petitioner is not entitled to the relief requested in the Verified Petition," it also made clear that "[b]y issuance of this Rule to Show Cause, the Court has not made any findings/determinations as to the validity of the Petitioner's claims." (R. 471a.) The Court explained at the hearing that "the rule to show cause vehicle is frequently used here in

Allegheny County for many reasons given the volume of issues that need to be decided” and that it “was not in any way determinative of the substantive issues before the Court.” (R. 543-44a.)

Following argument on February 12, 2026, the trial court issued an order dismissing the Petition. (R. 525a.) The trial court explained its reasoning on the record at argument, making clear that there was no basis for the Petition either under the Habeas Corpus Act *or* at common law. (*See* R. 579-81a (discussing Habeas Corpus Act and Statutory Construction Act); R. 581a (explaining that “even if [the] 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.”))

This appeal followed.

SUMMARY OF THE ARGUMENT

The NHRP essentially asks this Court to declare that five elephants are legal persons that may be entitled to habeas corpus relief. But Pennsylvania law consistently treats animals as property, not legal persons, and every American court to consider the issue has denied habeas relief to animals. The trial court followed

that unbroken line of authority when it held that whether “the term ‘person’ extends to nonhumans” is dispositive and may be decided as a matter of law. (R. 579a.) Three independent grounds support the trial court’s determination that elephants are not persons. First, the Habeas Corpus Act confines the writ to persons, and the statutory definition of that term does not include animals. Second, the common law has treated animals as property, not persons, for more than two centuries. Third, the recognition NHRP seeks is a dramatic expansion of the law, which, if it is to be considered at all, is a policy judgment reserved to the General Assembly.

NHRP recasts the personhood question as a “merits” issue that the trial court could not decide before an evidentiary hearing. (*See* NHRP Br. at 19.) However, it follows from the elephants’ lack of personhood that NHRP cannot establish standing or a *prima facie* case of habeas relief. No amount of evidence could change the legal determination that elephants are not legal persons. Accordingly, the trial court properly denied NHRP’s Petition without an evidentiary hearing.

ARGUMENT

I. An elephant is not a legal “person” entitled to habeas corpus relief.

A. Personhood is a legal category, not a factual inquiry into cognitive capacity.

NHRP’s Petition rests on eight declarations from supposed experts describing the elephants’ intelligence and autonomy, which NHRP treats as facts that compel a merits hearing once accepted as true. (See NHRP Br. at 8, 16, 26-27.) The availability of habeas relief, however, depends on the elephants’ status, or lack thereof, as “persons.” That is a legal question determined by the Habeas Corpus Act, the Statutory Construction Act, and by common law, not a factual question that required the trial court to consider NHRP’s expert declarations.

The New York Court of Appeals addressed the same question in *Matter of Nonhuman Rights Project, Inc. v. Breheny*, where NHRP sought habeas relief for an elephant named Happy at the Bronx Zoo. 197 N.E.3d 921 (N.Y. 2022). Notwithstanding NHRP’s submission of similar affidavits from supposed experts, the court still rejected the petition, holding that the writ “protects the right to liberty of humans *because* they are humans with

certain fundamental liberty rights recognized by law,” and that “[t]he selective capacity for autonomy, intelligence, and emotion of a particular nonhuman animal species is not a determinative factor in whether the writ is available.” *Id.* at 927 (emphasis in original). The Colorado Supreme Court reached the same result in *Nonhuman Rights Project, Inc. v. Cheyenne Mountain Zoological Society*, another of NHRP’s elephant habeas cases, holding that habeas “protections flow from the status of being a person, not from a being’s ability to pass some type of autonomous capacity test,” and that the statute reaches only persons, “no matter how cognitively, psychologically, or socially sophisticated they may be.” 562 P.3d 63, 65, 70 (Colo. 2025).

Because personhood does not turn on cognition, no quantity of expert testimony about elephant intelligence converts the legal question into a factual one. Crediting every averment in the Petition, the elephants remain elephants under Pennsylvania statutory and common law, as described below. The trial court correctly resolved the petition without the evidentiary hearing NHRP demanded.

B. Pennsylvania’s Habeas Corpus Act extends the writ only to “persons.”

Pennsylvania courts have long described habeas corpus as an important remedy for human persons. It is “the prerogative of the citizen; the safeguard of his person, and the security of liberty.” *Commonwealth ex rel. Webster v. Fox*, 7 Pa. 336, 338 (1847). The writ tests the legality of a person’s detention, in particular, “to extricate a petitioner from illegal confinement or to secure relief from conditions of confinement that constitute cruel and unusual punishment.” *Commonwealth ex rel. Fortune v. Dragovich*, 792 A.2d 1257, 1259 (Pa. Super. 2002). Although NHRP characterizes the writ as a flexible one, its own authority makes clear that this “flexibility . . . is not limitless.” *Breheny*, 197 N.E.3d at 928.

In Pennsylvania, “[t]he availability of *habeas corpus* . . . is both prescribed and limited by statute.” *See Dragovich*, 792 A.2d at 1259. The Habeas Corpus Act empowers a court to inquire into the detention “of any *person*,” 42 Pa.C.S. § 6502(a) (emphasis added), and it authorizes an application “by or on behalf of any *person* restrained of his liberty within this Commonwealth under any pretense whatsoever,” *id.* § 6503(a) (emphasis added). In

other words, the availability of habeas relief depends upon whether the individual seeking it has the legal status of a “person.” Although the Habeas Corpus Act does not define “person,” that term is defined in the Statutory Construction Act as including “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. Each listed entity is either a human being (such as a “natural person”) or a legal construct that is necessarily operated by human beings.

A statute’s plain language is the best evidence of legislative intent. *White v. Conestoga Title Ins. Co.*, 53 A.3d 720, 730-31 (Pa. 2012). When statutory words are “clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit,” and express definitions are therefore controlling. 1 Pa.C.S. § 1921(b); *see also id.* § 1903(a) (“Words and phrases shall be construed . . . according to their common and approved usage . . .”). “[S]tatutory interpretation is a question of law for the court.” *Crown Castle NG East LLC v. Pennsylvania Public Utility Commission*, 234 A.3d 665, 677 (Pa. 2020). The plain

language of the statutory definition forecloses the inclusion of animals in the definition of “person.”

NHRP relies on a source cited in *Black’s Law Dictionary* for the proposition that “a person is any being whom the law regards as capable of rights or duties.” (See NHRP Br. at 14 (citing *Black’s Law Dictionary*, “Person” and quoting John Salmond, *Jurisprudence* 318 (10th ed. 1947)).) But NHRP ignores that all of the examples of other “persons” discussed in *Black’s* are entities like corporations that are comprised of humans. See *Black’s Law Dictionary*, “Person,” Definition 3 (providing alternative definition of “Person” as “[a]n entity (such as a corporation) that is recognized by law as having most of the rights and duties of a human being. In this sense, the term includes partnerships and other associations, whether incorporated or unincorporated.”) More importantly, NHRP ignores that the primary definition of “Person” given by *Black’s* is “[a] human being.” *Id.*

NHRP also argues that elephants may be “persons” because the statutory definition contains the word “includes,” leaving it open to enlargement beyond the specified categories. (See NHRP Br. at 37-38). However, although “the presence of such a

term as ‘including’ in a definition exhibits a legislative intent that the list that follows is not an exhaustive list of items that fall within the definition,” the expansive function of the term is limited because “any additional matters purportedly falling within the definition, but that are not express, must be similar to those listed by the legislature and of the same general class or nature.” *Dep’t of Env’tl Prot. v. Cumberland Coal Res., L.P.*, 102 A.3d 962, 976 (Pa. 2014).

Examining the Pennsylvania statutes as a whole makes clear that elephants are not “of the same general class or nature” as those entities that are expressly defined as “persons.” The same section of the Statutory Construction Act defines “individual” as “[a] natural person” and defines “[d]omestic animal” as specified livestock. 1 Pa.C.S. § 1991. Moreover, all mammals that are not “domestic animals” (or certain species of swine, pig, or boar) are expressly defined as “wild animals” — not persons — by the Game and Wildlife Code. 34 Pa.C.S. § 102. In other words, the General Assembly was cognizant of animals as a separate category and capable of naming them when it intended.

NHRP's argument that the statutory definitions are inapplicable when "the context clearly indicates otherwise" is also unavailing. (See NHRP Br. at 36.) Nothing in the context of either the Statutory Construction Act or the Habeas Corpus Act suggests that "person" bears the extraordinary meaning in the habeas context that NHRP would assign to it, and which has never been accepted by any court in the United States. The Colorado Supreme Court considered the same argument raised by NHRP in connection with a statute with similar wording, holding that the legislature's "choice of the word 'person' demonstrates its intent to limit the reach" of the statute "to human beings," and that folding animals into that term would be "the type of monumental change in the law that one would reasonably expect the General Assembly to make explicit." *Cheyenne Mountain*, 562 P.3d at 69.

NHRP also tries to avoid the effect of the Habeas Corpus Act by describing it as merely procedural. (NHRP Br. 32-33 & n.27.) As an initial matter, NHRP's argument is irrelevant because its Petition fails whether it is decided under the Habeas

Corpus Act or under common law. *See below* § 1.C. And in any event, the NHRP is wrong about the statute's reach.

First, the Statutory Construction Act makes clear that where the General Assembly provides a statutory remedy, "the directions of the statute shall be strictly pursued," and nothing may be "done agreeably to the common law" beyond what is necessary to carry the statute into effect. 1 Pa.C.S. § 1504. NHRP may not invoke the common law to avoid the terms of the statute that governs the remedy it seeks.

Second, the statutory framework limits the writ's substantive availability, not just the procedure for seeking it. In particular, the Act provides that where a person is confined after conviction, "the writ of habeas corpus shall not be available if a remedy may be had by post-conviction hearing proceedings authorized by law." 42 Pa.C.S. § 6503(b); *see also* 42 Pa.C.S. § 9542 (Post Conviction Relief Act providing that it "encompasses all other common law and statutory remedies for the same purpose . . . including habeas corpus."). The Supreme Court and this Court have confirmed that the Habeas Corpus Act places this substantive limit on the availability of the writ. *See Commonwealth v.*

Peterkin, 722 A.2d 638, 640-41 (Pa. 1998); *Commonwealth v. Taylor*, 283 A.3d 178, 188-89 (Pa. 2022); *Commonwealth v. Stout*, 978 A.2d 984, 986-87 (Pa. Super. 2009). As such, the Act does not merely serve a procedural function.

The PCRA is not the only substantive statutory limitation that Pennsylvania courts have recognized on habeas relief. For instance, although “[r]elief from insanity detentions was an ancient use of the writ . . . the Pennsylvania Supreme Court affirmed the dismissal of a petition for a writ of *habeas corpus* because a petitioner had not availed himself of the statutory procedure enacted by the Pennsylvania legislature to replace *habeas corpus* in mental health matters.” Hon. Thomas E. Martin, Jr., *Habeas Corpus in Pennsylvania Today*, 87 Pa. B.A. Q. 83, 90 (2016) (citing *Commonwealth ex rel. Wolenski v. Shovlin*, 213 A.2d 327, 329-30 (Pa. 1965)). In other words, Pennsylvania law recognizes statutory and rules-based limitations on habeas relief in multiple contexts.

NHRP misplaces its reliance on precedent including *Commonwealth ex rel. Levine v. Fair* and *Commonwealth ex rel. Stevens v. Myers* to argue that the common law writ is not limited by

statute. (NHRP Br. at 33 & n.27 (citing *Commonwealth ex rel. Stevens v. Myers*, 213 A.2d 613 (Pa. 1965); *Commonwealth ex rel. Levine v. Fair*, 146 A.2d 834 (Pa. 1958))). These cases predate both the modern Habeas Corpus Act of 1976 and the PCRA, which *Peterkin* and *Taylor* recognized as legislative limitations to the writ's reach. Likewise, *Williamson v. Lewis*, 39 Pa. 9 (1861) even further predates those modern legislative enactments. In other words, this precedent does not license a court to disregard the statutory limits imposed by the Habeas Corpus Act.

The inapplicability of NHRP's precedent is underscored by the fact that none of these cases involve the dramatic departure from existing habeas law that NHRP advocates. For instance, *Myers* involved the question whether a habeas petition was ripe to challenge a portion of a consecutive sentence that the defendant had not yet begun to serve. 213 A.2d at 615-16. *Fair* similarly involved questions of whether habeas relief was proper absent a contention that a prisoner's arrest violated due process, and whether a habeas petition was premature after arrest but prior to a preliminary hearing by a magistrate judge. 146 A.2d at 837-38, 842-43.

NHRP's reliance on *Commonwealth v. Burke*, 261 A.3d 548 (Pa. Super. 2021), is also misplaced. (See NHRP Br. at 33.) There, this Court held that a magisterial district court and trial court erred by relying on hearsay evidence at a preliminary criminal hearing and habeas corpus hearing to find that the Commonwealth established a prima facie criminal case. *Id.* at 550. The issue was whether, in light of that deficiency, the defendant should be set at liberty or if the Court should instead remand for a new habeas hearing. In determining to order the prisoner's release, the panel followed the common law; it did not expand it. *See id.* at 552-53. The panel's statements about the Habeas Corpus Act were dicta because there was no argument in that case that available relief was limited by statute. *See id.* at 553.

NHRP's reliance on the constitutional guarantee of a habeas remedy is also misplaced because that constitutional guarantee does not extend to animals. (See NHRP Br. at 11, 34, 36.) The Pennsylvania constitution is to be interpreted according to the "1) text of the Pennsylvania constitutional provision; 2) history of the provision, including Pennsylvania case-law; 3) related case-law from other states; [and] 4) policy considerations,

including unique issues of state and local concern, and applicability within modern Pennsylvania jurisprudence.” *Commonwealth v. Edmunds*, 586 A.2d 887, 895 (Pa. 1991). As described below, no common law court has ever found that animals, including elephants, are persons entitled to habeas relief, and such a conclusion would wreak havoc on the existing legal system. As such, none of the *Edmunds* interpretive principles support a constitutionally guaranteed habeas right for elephants.

C. Elephants are also not persons entitled to habeas relief at common law.

Even if the Habeas Corpus Act were inapplicable, NHRP’s Petition would fare no better at common law. It is settled at common law that animals are not persons entitled to habeas relief, and no applicable precedent supports NHRP’s contrary argument.

“At common law, the category of ‘persons’ was confined to human beings, and the law separately addressed the status of animals” which were “treated . . . as objects of property.” *Nonhuman Rights Project, Inc. v. DeYoung Fam. Zoo, LLC*, 2025 WL 2957821, at *8 (Mich. Ct. App. Oct. 17, 2025) (discussing

Blackstone). Pennsylvania law accordingly classifies non-domestic animals as subject to ownership as property, not persons. For example, the common law rule of *ferae naturae* that applies to wild animals is that they “are not the subject of property until they are reduced to possession,” and any property in a live animal “exists only so long as possession continues.” *Commonwealth v. Agway, Inc.*, 232 A.2d 69, 70 (Pa. Super. 1967); *see also Wallis v. Mease*, 3 Binn. 546, 549, 1811 WL 1529, at *3 (Pa. 1811) (adopting doctrine of *ferae naturae*). That doctrine only makes sense if animals may be possessed as property. The Commonwealth likewise maintains “ownership, jurisdiction over and control of game or wildlife . . . in its sovereign capacity.” 34 Pa.C.S. § 103(a).

Pennsylvania law is also clear that domestic animals are property that may be possessed. The General Assembly has provided that “[a]ll dogs are hereby declared to be personal property and subjects of theft.” 3 P.S. § 459-601(a); *see also, e.g., Price v. Brown*, 680 A.2d 1149, 1153 (Pa. 1996) (“[A] dog is personal property.”) Accordingly, a demand for “shared custody” of a dog is analogous to seeking “a visitation schedule for a table or a lamp.” *Desanctis v. Pritchard*, 803 A.2d 230, 232 (Pa. Super.

2002); *see also, e.g., Madero v. Luffey*, 439 F. Supp. 3d 493, 504 (W.D. Pa. 2020), *vacated on other grounds, Madero v. Luffey*, No. 22-1705, 2024 WL 3066038 (3d Cir. June 20, 2024) (“Cats, like all animals, are considered chattel under Pennsylvania law.”) (emphasis added); *Snead v. Society for Prevention of Cruelty to Animals of Pa.*, 929 A.2d 1169, 1174 (Pa. Super. 2007) (stating that, under Pennsylvania law, dogs are considered property). Likewise, a seized animal is considered the property of its owner for purposes of due process. *Commonwealth v. Gonzalez*, 588 A.2d 528, 535 (Pa. Super. 1991). In other words, Pennsylvania law has treated animals as property, without exception, for over two centuries.

The common law of Pennsylvania is in line with the broader common law. In fact, no American court has ever recognized an animal as a “person” entitled to a writ of habeas corpus. *See Cheyenne Mountain*, 562 P.3d at 70 (“[N]o Colorado court, nor any other court in any other jurisdiction in the United States has ever recognized the legal ‘personhood’ of any nonhuman species.”); *Breheny*, 197 N.E.3d at 927 (“[N]o court of this State—or any other—has ever held the writ applicable to a nonhuman animal.”); *Nonhuman Rights Project, Inc. v. Lavery*, 152 A.D.3d 73, 78

(N.Y. App. Div. 1st Dep’t 2017) (“[H]abeas relief has never been found applicable to any animal.”); *DeYoung Fam. Zoo*, 2025 WL 2957821, at *11 (finding that “courts have uniformly declined to extend habeas to animals.”); *Nonhuman Rights Project, Inc. v. R.W. Commerford & Sons, Inc.*, 216 A.3d 839, 844 (Conn. App. Ct. 2019) (a review of “the federal habeas statutes and English common law” revealed “no indication that habeas corpus relief was ever intended to apply to a nonhuman animal, irrespective of the animal’s purported autonomous characteristics.”)

That classification makes sense, because legal personhood at common law not only confers rights, it also requires the capacity to bear duties. As the New York high court explained, “[u]nlike the human species, which has the capacity to accept social responsibilities and legal duties, nonhuman animals cannot—neither individually nor collectively—be held legally accountable or required to fulfill obligations imposed by law.” *Breheny*, 197 N.E.3d at 928-29. The Connecticut Appellate Court reached the same conclusion, explaining that the “ascription of rights has historically been connected with the imposition of societal obligations and duties” and that an elephant is “incapable

of bearing duties and social responsibilities required by such social compact.” *R.W. Commerford & Sons, Inc.*, 216 A.3d at 845 (quoting *Lavery*, 124 A.D.3d at 151). As the Michigan Court of Appeals put it, “[a]nimals simply are not members of the political community.” *DeYoung Fam. Zoo*, 2025 WL 2957821, at *10.

NHRP’s comparison of elephants to legal entities like corporations or ships is misplaced. (See NHRP Br. at 13-14.) Unlike elephants, those are entities or constructs through which humans act. For instance, “[c]orporations are simply legal constructs through which human beings act” and “bear legal duties in exchange for legal rights.” *Breheny*, 197 N.E.3d at 929. Moreover, even though a corporation is a “person” for many purposes under the law, it has no liberty interest that a writ of habeas corpus could vindicate because it cannot be held in custody. *Id.* Comparing an elephant to a corporation is “inapt and unavailing.” *Id.*

The fact that NHRP’s position has no basis in common law is evident in its heavy reliance on the *dissenting* opinion from the New York Court of Appeals in *Breheny*. That does not even represent the common law of New York, much less Pennsylvania.

Indeed, the majority in that case described the dissent as “long on historical discourse but woefully short of any cogent legal analysis identifying any recognizable source” of the rights it would confer on animals. *Breheny*, 197 N.E.3d at 928.

In fact, the *only* authority cited in NHRP’s appellate brief that granted habeas-like relief to animals is a decision by the Argentine “Third Court of Guarantees.” (NHRP Br. at 15 n.7.) NHRP cites to an uncertified translation of the decision present on NHRP’s website, and the Court should disregard it on the basis of that lack of authority alone. Moreover, Argentina is a civil law, not a common law jurisdiction, so the reasoning of one Argentine court—to the extent it is even discernible from the uncertified translation cited to—is of no value in developing Pennsylvania’s common law. See Nonhuman Rights Project, “The Difference between Common Law and Civil Law” (Nov. 27, 2014) (“Argentina is a civil law jurisdiction. The difference is critical.”)²; Federal Judicial Center, *Judiciaries Worldwide: A Resource on Comparative Judicial Practice*, Argentina (last accessed Aug. 23,

² Available at <https://www.nonhumanrights.org/blog/the-difference-between-common-law-and-civil-law/>

2026)³ (“Argentina is a code-based civil law system, reflecting the influence of Spanish colonial authority.”)⁴

D. The relief NHRP seeks is a radical expansion of the law, not a gradual development.

Pennsylvania courts are reluctant to engage in judicial policymaking through expansions of the common law. The Pennsylvania Supreme Court has recognized that judicial policymaking proceeds on “shifting sands” and that the adjudicatory process “does not consistently translate well into the field of broader policymaking,” because it resolves the disputes of particular litigants rather than weighing the interests of society at large. *See*

³ Available at <https://judiciariesworldwide.fjc.gov/country-profile/argentina>

⁴ NHRP cites its trial court briefing for “additional examples of international courts recognizing the legal rights of nonhuman animals” but each of those examples is unpersuasive for the same reasons as the Argentine court decision. (*See* NHRP Br. at 16 n.9 (citing R. 98-101a)). As with the Argentine decision, those opinions are from varied legal traditions with little persuasive value in the development of Pennsylvania common law. Moreover, NHRP does not establish that the copies and translations it provides are authoritative and the proper subject of judicial notice.

Seebold v. Prison Health Services, Inc., 57 A.3d 1232, 1245 (Pa. 2012) (quotation omitted). Accordingly, the Court will not recognize new common-law obligations unless “the justifications for and consequences of judicial policymaking are reasonably clear with the balance of factors favorably predominating,” and only where it can “see with reasonable clarity the results of its decision” and “say with reasonable certainty that the change will serve the best interests of society.” *Id.* at 1245 (quotation omitted).

NHRP’s Petition meets none of these conditions. The trial court correctly recognized that NHRP’s Petition would require “leaps” that the court was “unable to make based upon existing legal authority” and that were “best left [to] the General Assembly.” (R. 582a.) Indeed, NHRP seeks a radical expansion of the law that would have wide-ranging impacts. Recognizing an elephant as a “person” entitled to habeas relief “essentially would require us to upend this state’s legal system to allow highly intelligent, if not all, nonhuman animals the right to bring suit in a

court of law.” See *R.W. Commerford & Sons*, 216 A.3d at 844.⁵ That “would have an enormous destabilizing impact on modern society.” *Breheny*, 197 N.E.3d at 929.

NHRP’s comparisons to previous expansions of the common law fail. In particular, NHRP analogizes the elephants to enslaved people and to women once denied full legal status, arguing that the writ of habeas corpus has always grown to embrace the wrongly excluded. (NHRP Br. at 15, 22-24, 27-31.) The New York Court of Appeals aptly described that same analogy as “an odious comparison with concerning implications.” *Breheny*, 197 N.E.3d at 928. More than that, the analogy is analytically wrong. “The atrocity of slavery was that the law permitted

⁵ Additionally, it is outside this Court’s purview as an intermediate appellate court to expand the common law. See *D’Errico v. DeFazio*, 763 A.2d 424, 433 (Pa. Super. 2000) (“[O]nly our supreme court and the legislature can adopt new causes of action in Pennsylvania.”); *Alfred M. Lutheran Distributors, Inc. v. A.P. Weilersbacher, Inc.*, 650 A.2d 83, 90 n.8 (Pa. Super. 1994) (“Policy considerations regarding the recognition of a new statutory cause of action are more appropriately directed to the General Assembly or our Supreme Court, as it is not the prerogative of an intermediate appellate court to enunciate new precepts of law or expand existing legal doctrines.”)

persons to be treated as property,” and the eventual recognition of the rights of enslaved persons and women rectified “failures to honor human personhood, not expansions of it beyond the human species.” *DeYoung Family Zoo*, 2025 WL 2957821, at *10.

NHRP’s invocation of Pennsylvania precedent involving the development of common law falls flat. (See NHRP Br. at 45-46.) For instance, NHRP’s reliance on our Supreme Court’s decision in *Tincher* overlooks the Supreme Court’s recognition that “judicial modesty counsels that we be content to permit the common law to develop incrementally.” *Tincher v. Omega Flex, Inc.*, 104 A.3d 328, 406 (Pa. 2014). The Court there modified its own prior decisional law to reflect “the realities of strict liability practice and to serve the interests of justice.” *Id.* at 376. Likewise, by the time the Supreme Court held in *McCusker* that psychiatric evidence was admissible in a criminal trial, there was already an “almost unanimous voice of professionally recognized authorities that such evidence is competent and in certain circumstances admissible” and the Court made clear the limited nature of its holding by explaining that its decision “does not in any manner affect the . . . test presently employed . . . to determine a

defendant's sanity." *Commonwealth v. McCusker*, 292 A.2d 286, 287 (Pa. 1972). That restraint is in significant contrast to the draconian change that NHRP advocates. The other opinion cited by NHRP was a *dissent* from a decision that declined to abrogate an existing common law principle. *See Loughner v. Allegheny Cnty.*, 436 Pa. 572, 576-77 (1970) (Pomeroy, J., dissenting).

NHRP likewise cites *Marion v. Bryn Mawr Trust Co.*, 288 A.3d 76 (Pa. 2023) as an example of common law development, but the Supreme Court's method in that case is in stark contrast to what the NHRP advocates here. (*See* NHRP Br. at 40-41.) There, the Supreme Court proceeded "cautiously" to "recognize the tort of aiding and abetting fraud." *Id.* at 84. It did so only after recognizing that the result was implied by the Court's own precedent; was supported by Superior Court and Commonwealth Court precedent; had been predicted by federal courts construing Pennsylvania law; and the cause of action was recognized in the laws of other states and the Restatement. *See id.* at 84-86. As such, the Court's decision in *Marion* was a proper, incremental exercise of common law decision making.

As numerous courts have recognized in rejecting substantially similar petitions by NHRP, the right it asserts, if it is to be established at all, should only be done by the legislature. *See Cheyenne Mountain*, 562 P.3d at 70-71 (NHRP's objective is "best advanced through the legislative, not judicial, branch."); *Breheny*, 197 N.E.3d at 931 (using habeas "to extend legal personhood beyond living humans is not a matter for the courts."); *Lavery*, 152 A.D.3d at 79 (recognizing fundamental legal rights for animals is "an issue better suited to the legislative process."). Moreover, the General Assembly is well-equipped to protect animal welfare without taking the extreme step of making animals persons, because it already regulates animal welfare. *See, e.g.*, 34 Pa.C.S. §§ 2961-65 (governing the sale and possession of exotic wildlife); 58 Pa. Code §§ 147.281-147.287 (same, regulating menageries); 18 Pa.C.S. §§ 5531-61 (criminal prohibition on animal cruelty).

II. NHRP was not entitled to a hearing on the merits.

Despite the overwhelming weight of authority establishing that elephants are not persons entitled to habeas relief, NHRP insists that the trial court should have at least given it the opportunity for a hearing. But the fact that elephants are not persons

entitled to habeas relief is a controlling and predicate legal determination that no amount of evidence could change. Closely related to that legal determination is NHRP's failure to establish standing or a prima facie case for habeas relief. Accordingly, the trial court properly denied the habeas petition without an evidentiary hearing.

A. NHRP could not confer standing on the elephants and failed to establish next-friend standing.

"Standing is a justiciability concern, implicating a court's ability to adjudicate a matter." *Firearm Owners Against Crime v. Papenfuse*, 261 A.3d 467, 481 (Pa. 2021). "Accordingly, a court must resolve justiciability concerns as a threshold matter before addressing the merits of the case." *Id.* "The touchstone of standing is 'protect[ing] against improper plaintiffs.'" *Id.* (quoting *In re Application of Biester*, 409 A.2d 848, 851 (Pa. 1979)). NHRP concedes that standing is a threshold question to be resolved before reaching the merits. (See NHRP Br. at 24.) The standing question has two dimensions: who is filing the petition, and whose detention the writ is being invoked to test.

The Habeas Corpus Act limits the writ to “any person restrained of his liberty.” 42 Pa.C.S. § 6503, and, as described above, habeas relief has consistently been limited to human persons at common law. The subject of a habeas petition must therefore be a “person,” and a petition brought to test the confinement of a non-person fails at the threshold. That is because if the subject of the habeas petition is not a person, there is no cognizable detainee, and no petitioner has standing to seek the writ on the detainee’s behalf.

Under Pennsylvania law, a petitioner’s next-friend status cannot confer standing upon a relator who lacks standing to bring a claim in its own right. Pennsylvania law has long made clear that the purpose of next-friend standing is to facilitate litigation where the relator lacks capacity, not to overcome the relator’s lack of standing. *See Haines v. Fitzgerald*, 165 A. 52, 54 (Pa. Super. 1933) (explaining that the purpose of allowing “a minor . . . to sue by a next friend” is “to supply the want of capacity in the infant, to afford in his own person a party responsible on the record for the costs.”) (quoting *Heft & Hix v. McGill*, 3 Pa. 256, 264 (1846); *Turner v. Patridge*, 3 Pen. & W. 172, 173 (Pa. 1831)).

Pennsylvania's adoption of the modern next friend standards from *Whitmore v. Arkansas*, 495 U.S. 149 (1990), described below, does not change that rule. As the Supreme Court explained there, "one necessary condition for 'next friend' standing in federal court is a showing by the proposed 'next friend' that the real party in interest is unable to litigate his own cause due to mental incapacity, lack of access to court, or other similar disability." *Id.* at 165. That reasoning presumes that there is a "real party in interest" whose claim the next friend will assert on his or her behalf. In this case, the elephants are not legal persons and cannot be "real part[ies] in interest." NHRP's attempt to manufacture next friend standing does not change that.

Colorado's high court rejected a similar effort by NHRP to supply standing for relator elephants, reasoning that because the elephants were not persons, they lacked standing, and the court therefore "lacked subject matter jurisdiction." *Cheyenne Mountain*, 562 P.3d at 70. Accordingly, it did not need to "reach the question of whether the Petition sets forth a prima facie case." *Id.* As the Appellate Court of Connecticut explained, because a next friend is suing on another's behalf, "it is apparent that the real

party in interest for whom the ‘next friend’ seeks to advocate for, must have standing in the first instance.” *R.W. Commerford & Sons*, 216 A.3d at 843. “It follows inexorably that the petitioner cannot satisfy the prerequisites for establishing next friend standing, for there is no basis in law on which to conclude that an entity seeking next friend status may confer standing on an alleged party in interest.” *Id.*

NHRP nevertheless insists 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,” relying on our Supreme Court’s decision in *Respublica v. Betsey*, 1 Dall. 469 (Pa. 1789) (*See* NHRP Br. at 22-23), which considered a habeas petition filed on behalf of an enslaved person. That is simply a reprisal of NHRP’s inapt comparison of the situation of elephants to that of enslaved persons and women, before their legal rights were fully recognized. *See above* at 26-27. Moreover, the judges in *Betsey* did not appear to question whether the enslaved persons who were the subject of the petition were “persons” on whose behalf the writ could be filed. Instead, the decision turned on how to construe the General Assembly’s “act for the gradual

abolition of Slavery.” *Id.* at 469, 474-75. In other words, the case did not confer personhood status on individuals who did not previously have it, nor did it allow a petition to be filed on behalf of an individual lacking that status.

Additionally, even if an elephant could be the subject of the writ, NHRP lacks standing to prosecute a petition on its behalf. A third party who sues for another must establish standing to do so, and NHRP cannot. *See Whitmore*, 495 U.S. at 163-64; *Commonwealth v. Haag*, 809 A.2d 271, 278-80 (Pa. 2002) (explaining Pennsylvania’s adoption of *Whitmore* standard for next friend standing).

In particular, NHRP is wrong that the language of the Habeas Corpus Act implies that anyone may file for anyone else. (*See* NHRP Br. at 21). In *Whitmore*, the United States Supreme Court rejected such an expansive reading of the federal habeas statute, explaining that next-friend standing “is by no means granted automatically to whomever seeks to pursue an action on behalf of another” and is confined by “firmly rooted prerequisites.” *Whitmore*, 495 U.S. at 163. In particular, the putative next friend must (1) explain “why the real party in interest cannot

appear on his own behalf to prosecute the action,” and (2) “must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate,” ordinarily through a significant relationship with him. *Id.* at 163-64. Those limits guard against the writ being “availed of, as matter of course, by intruders or uninvited meddlers, styling themselves next friends.” *Id.* at 164 (quotation omitted). For example, in a similar case, the Ninth Circuit found that the animal rights group PETA did not establish next friend status and instead “seem[ed] to employ [the purported real party in interest monkey] as an unwitting pawn in its ideological goals.” *Naruto v. Slater*, 888 F.3d 418, 421 n.3 (9th Cir. 2018). The same appears true here.

NHRP wrongly objects that the *Whitmore* standard has no application to a common law habeas petition because the Pennsylvania case adopting it, *Commonwealth v. Haag*, arose under the Post Conviction Relief Act. (See NHRP Br. at 21 n.13). NHRP’s argument is misplaced for several reasons. First, the policy underlying the next-friend requirement is applicable to any petition brought on another’s behalf, because the requirement exists to keep the writ from being commandeered by self-appointed

representatives. That concern is at its height where the petitioner is an advocacy organization with no relationship to the detainee. *See Whitmore*, 495 U.S. at 163-64. Second, NHRP asks the Court to expand the common law writ of habeas corpus, and a court that recognizes or enlarges a right must also define the limits that attend it. That includes who may invoke it and on whose behalf. NHRP cannot demand the benefit of an expanded writ while disclaiming the standing limits that Pennsylvania already applies to third parties who seek habeas-type relief.

NHRP cannot establish next-friend standing. It has no relationship with the elephants, and its Petition alleges no facts that would support next friend standing. In fact, the Zoo is the elephants' lawful owner and caretaker, and the NHRP has offered no reason why it may displace the Zoo as their representative.

B. NHRP failed to state a prima facie case for habeas relief and was entitled to no evidentiary hearing.

NHRP insists that it was entitled to the issuance of a rule to show cause and a merits hearing on its petition for habeas corpus relief and that the trial court was required to consider its

purported expert declarations. (See NHRP Br. at 10-11, 16-19, 26.) In fact, a petition warrants a rule to show cause and a hearing only when it alleges “facts which, if true, would entitle the relator to an award of a writ,” and it “may be denied summarily and without a hearing where it fails to allege facts making out a prima facie case for the issuance of the writ.” *Balsamo v. Mazurkiewicz*, 611 A.2d 1250, 1252 (Pa. Super. 1992); see also *Commonwealth v. Claudy*, 90 A.2d 382, 382-83 (Pa. Super. 1952) (“In the absence of any allegations in the petition which make out a prima facie case for allowing a writ of habeas corpus, no hearing on the petition was necessary, and the issuance of a rule to show cause was not required.”) NHRP’s petition states no claim for relief as a matter of law, and the trial court was correct to summarily deny it.⁶

⁶ NHRP suggested in opposition to the Zoo’s motion to dismiss that the trial court’s issuance of the January 2, 2026, scheduling order implied that NHRP had stated a prima facie case for habeas relief. (See R. 499a.) However, as described above, the January 2, 2026, order was nothing more than a scheduling order, as the trial court made clear at argument. See *above* at 4-5.

First, elephants are not proper subjects of habeas relief because they are not legal persons. Their non-personhood is a pure issue of law, as described above. Where a habeas petition “raise[s] no questions of fact, but solely questions of law,” the court may dispose of it without a hearing. *Com. ex rel. Tate v. Banmiller*, 143 A.2d 56, 58 (Pa. 1958). Accordingly, where the allegations present no genuine factual dispute, summary dismissal is proper. *Com. ex rel. Watters v. Myers*, 176 A.2d 448, 450 (Pa. 1962).

Second, elephants have no right to bodily liberty, so their confinement cannot be unlawful. Habeas relief lies “only to extricate a petitioner from illegal confinement or to secure relief from conditions of confinement that constitute cruel and unusual punishment,” the latter requiring a “patent and serious deprivation[.]” of a constitutional right. *Dragovich*, 792 A.2d at 1259-60 (quotation omitted). Here, the elephants are not unlawfully restrained. NHRP does not dispute the Zoo’s proper ownership of the elephants under existing law, nor that the elephants are housed at a federally-licensed facility in compliance with relevant statutes and regulations. Confinement authorized and

regulated by law is not an illegal restraint that the writ exists to remedy.

NHRP nevertheless insists that habeas relief is necessary to vindicate the elephants' common law "right to bodily liberty." (NHRP Br. at 27.) But animals have no such rights, because every recognized source of a liberty right runs to persons, not animals. For instance, the Thirteenth Amendment "applies to persons, and not to non-persons such as orcas" and "only human beings, or persons, are afforded the protection" of that Amendment. *Tilikum ex rel People for the Ethical Treatment of Animals, Inc. v. Sea World Parks & Ent., Inc.*, 842 F. Supp. 2d 1259, 1263 (S.D. Cal. 2012) (dismissing for lack of subject matter jurisdiction). Legal rights are not conferred on animals absent an express legislative grant. To the contrary, "animals are the protected rather than the protectors," and if the legislature "intended to take the extraordinary step of authorizing animals as well as people . . . to sue, they could, and should, have said so plainly." *Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1177-79 (9th Cir. 2004). For example, a dog "lacks standing to sue under the ADA (or any other civil rights statute)." *Lewis v. Burger King*, 344 F. App'x 470, 472 (10th Cir. 2009).

And a dolphin lacks standing to sue under the Marine Mammal Protection Act. *Citizens to End Animal Suffering & Exploitation, Inc. v. New England Aquarium*, 836 F. Supp. 45, 49 (D. Mass. 1993) (statute “expressly authorizes suits brought by persons, not animals.”) These legislative “distinctions reflect the abiding view that nonhuman animals are not persons with a common law right to liberty that may be secured through a writ of habeas corpus.” *Breheny*, 197 N.E.3d at 931-32.

NHRP’s Petition has no basis in statute or at common law, and it failed for lack of standing and for its fundamental inability to set forth a prima facie case of relief. Accordingly, the trial court was correct to deny it without an evidentiary hearing.

CONCLUSION

For the foregoing reasons, this Court should affirm.

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CERTIFICATE OF WORD COUNT

I certify that this brief contains 7,709 words and therefore complies with Pa.R.A.P. 2135.

September 9, 2026

/s/ Andrew R. Sperl

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

September 9, 2026

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