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**IN THE COURT OF COMMON PLEAS
FOR ALLEGHENY COUNTY**

CIVIL DIVISION

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

Petitioner,)

v.)

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

Respondents.)

Civil Case No. GD-25-10963

NOTICE OF APPEAL

NOTICE OF APPEAL

Nonhuman Rights Project, Inc., (“NhRP”) on behalf of Angeline, Savanna, Tasha, Victoria, and Zuri, appeal to the Superior Court of Pennsylvania from the Order of Court entered on February 11, 2026. This Order has been entered upon the docket as evidenced by the attached

copy of the docket entry. Ex. A.

Pursuant to Pa.R.A.P. 1922(a), the NhRP filed a Request for Transcript on February 18, 2026, which was approved on the same day. Ex. B. A true and correct copy of the transcript is attached hereto. Ex. C.

Dated: March 9, 2026.

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

Jake Davis*

*Admitted *pro hac vice*

Attorneys for Angeline, Savanna, Tasha, Victoria, and Zuri

EXHIBIT A

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

NONHUMAN RIGHTS PROJECT, INC., on CIVIL DIVISION
behalf of Angeline, Savanna, Tasha, Victoria,
and Zuri, CASE No-GD-25-010963

Petitioner,

V.

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

Respondents.

ORDER OF 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.

BY THE COURT:

Mary C. McGinley

EXHIBIT B



FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
OFFICE OF THE COURT REPORTERS
564 FORBES AVENUE, SUITE 805 ♦ PITTSBURGH, PENNSYLVANIA 15219
PHONE (412) 350-5414 ♦ FAX (412) 350-5827

REQUEST FOR TRANSCRIPT (FORM 227.1A)

DOCKET/CASE NUMBER(S)

GD-25-010963

CAPTION

NONHUMAN RIGHTS PROJECT
ZOOLOGICAL SOCIETY OF PITTSBURGH et al

TRANSCRIPTION REQUEST DETAILS

DIVISION ☒ Civil ☐ Criminal ☐ Family/Adult ☐ Family/Juvenile ☐ Orphans'

JUDICIAL/HEARING OFFICER JUDGE McGINLEY

TYPE OF PROCEEDING HEARING

DATE PROCEEDING STARTED: 2/12 ENDED: 2/12

TRANSCRIPT PURPOSE

Is this transcript being requested for the purpose of an appeal to the Superior Court, the Commonwealth Court or the Supreme Court?

☒ Yes ☐ No ☐ Unknown

Is this a Children's Fast Track Appeal?

Pa.R.A.P. 102. Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity.

☐ Yes ☒ No ☐ Unknown

REQUESTED PORTION

Request For Transcript, Certification And Waiver (Form 227.1A)

TRANSCRIPT	ORDERED	WAIVED
Complete Proceeding	☒	
Plaintiff's Case		
Defendant's Case		
Closing Argument		
Charge		
Other		

Signature of Judge if less than entire transcript is Ordered. (Pa.R.A.P. 1922(b) & Allegheny County Local Rule of Civil Procedure 227.1)

DELIVERY AND DEPOSIT DETAILS

DELIVERY TIME

☐ Ordinary ☐ Expedited ☒ Daily ☐ Same Day
72 hrs or less 18 hrs or less 6 hrs or less

PROCEEDING LENGTH

Less than 1 Hour ☐ 1-4 Hours ☒ More than 4 Hours up to One Day ☐ Multi-Day (enter the number of days) _____

DELIVERY FORMAT

☒ Electronic ☐ Bound Paper

SPECIAL DELIVERY INSTRUCTIONS:

DEPOSIT AMOUNT \$ 50

ALL CHECKS MUST BE MADE PAYABLE TO "ALLEGHENY COUNTY"

DATE DEPOSIT RECEIVED

CASH ☐ CHECK NUMBER: _____

ON ITS WAY

Transcription will not begin without the appropriate deposit and/or approved waiver of transcript costs.

APPROVAL TO PROCEED

☒ Standard ☐ Court Appt/Gov't ☐ Reduced ☐ IFP

Approved M. Gelik Date 2/18/26

REQUESTOR

☒ Litigant ☐ Non-Litigant ☐ Attorney

REQUESTOR'S NAME JACOB DAVIS

REQUESTOR'S EMAIL JDAVIS@NONHUMANRIGHTS.ORG

REQUESTOR'S PHONE 513-833-5165 FIRM/AGENCY PHONE SAME

FIRM/AGENCY NAME NONHUMAN RIGHTS PROJECT, INC.

ALTERNATE CONTACT NAME & E-MAIL (Optional)

ADDRESS 411 PENNSYLVANIA AVE SE #345

CITY, STATE ZIP WASHINGTON, DC 20003

SIGNATURE OF REQUESTOR

Jake Davis

ATTORNEY SUBMISSIONS ONLY

Choose One:

☐ Private ☐ Court Appointment/Gov't

STATE ID:

TRANSCRIPT REQUEST INFORMATION

Rate Schedule

The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in paper or electronic format shall be:

Ordinary \$3.00/page
Expedited \$4.50/page
Daily \$6.00/page
Same Day \$9.00/page

Deposit Schedule

Requesting parties, other than the Commonwealth or a subdivision thereof, shall make a deposit of 50% of the estimated cost of the transcript as determined by the Allegheny County Office of Court Reporters, unless the requesting party is in arrears regarding payment for transcripts previously ordered, in which case a deposit equal to the full amount of the estimated cost of the transcript may be required.

The Office of Court Reporters, in its discretion, may require a flat deposit of \$50 rather than the percentage-based deposit ordinarily required.

Copies of Filed Transcripts

A request for a copy, in paper or electronic form, of a transcript shall be provided according to the following schedule for requesters other than the Commonwealth or a subdivision thereof

Ordinary \$2.00/page
Expedited \$3.00/page
Daily \$4.00/page
Same Day \$6.00/page

Economic Hardship

Pursuant to Rule 4007(E), the cost for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for litigants who are represented by a court-appointed attorney or have been permitted by the court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

The cost for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

A litigant who is currently represented by a court-appointed attorney or who has a court order granting in forma pauperis status shall be entitled to a waiver of costs for ordinary transcripts after documentation of such is provided to the Office of Court Reporters.

Other litigants who are only requesting a waiver of all or a portion of costs for ordinary transcripts shall make such request by filing a "Petition for Waiver of Transcript Costs" with the appropriate Division of the Court. This petition is available at the Office of Court Reporters, the Department of Court Records and on the Fifth Judicial District Website. The Petition must be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure and the related "Request for Transcript (Form 227.1A)" must be attached. An order granting such a waiver will be applicable to the specified transcript request only.

FOR COURT USE ONLY

RECEIVED _____ INFORMATION VERIFICATION DATE _____ DATE PREVIOUSLY FILED: _____

RATE: ☐ Standard ☐ Reduced ☐ Gov't ☐ IIFP Exp: _____ FINAL: ☐ Sole ☐ Shared by _____ COPY TYPE ☐ Party ☐ Public
Number of Requests

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

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

Petitioner,

vs.

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

Respondents.

CIVIL DIVISION

GD 25-010963

PROCEEDING:
Argument

DATE:
February 12, 2026

BEFORE: The Honorable
Mary McGinley

Reported and transcribed by:
Mary Beth Perko, RMR
Official Court Reporter

COUNSEL OF RECORD:

For the Petitioner:
Kenneth Cramer-Cohen, Esq.
Jake Davis, Esq.

For the Respondents:
DUANE MORRIS LLP
Michelle C. Pardo, Esq.
Daniel B. McLane, Esq.
Zachary L. Gross, Esq.

P-R-O-C-E-E-D-I-N-G-S

- - -

THE COURT: Good morning, everyone.

We're on the record in Nonhuman Rights Project, Inc., versus Zoological Society of Pittsburgh and Dr. Jeremy Goodman, CEO and President of the Pittsburgh Zoo.

Counsel if you'd please identify yourselves for the record and who you represent, starting with the petitioner.

MR. DAVIS: Good morning, Your Honor. My name is Jake Davis. I represent the Nonhuman Rights Project.

MR. CRAMER-COHEN: Good morning, Your Honor. Kenneth Cramer-Cohen, local counsel for the Nonhuman Rights Project.

MS. PARDO: Good morning, Your Honor. Michelle Pardo for the Zoological Society of Pittsburgh and Dr. Jeremy Goodman.

MR. McLANE: Good morning, Your Honor. Dan McLane also on behalf of the Zoological Society and Dr. Goodman.

MR. GROSS: Good morning, Your Honor. Zachary Gross on behalf of respondents.

THE COURT: I believe in addition to

1 Mr. Davis, you're Mr. Cramer-Cohen, correct?

2 MR. CRAMER-COHEN: Yes.

3 THE COURT: I didn't hear it, so if you
4 could keep your voice up. I would have
5 jumped in sooner, but thank you.

6 MR. CRAMER-COHEN: I'm sorry.

7 THE COURT: I know you said it. I just
8 didn't catch it.

9 Before the Court today is the motion to
10 dismiss a petition for writ of habeas corpus
11 filed by the respondents. So I'll allow the
12 respondents to proceed first, and then the
13 petitioner in this case, the respondent to
14 this particular motion, may proceed.

15 MS. PARDO: Good morning, Your Honor.
16 Michelle Pardo, may it please the Court, here
17 with Daniel McLane on behalf of respondents.
18 And I'm new to your court, Your Honor. I
19 appreciate the privilege to argue before you
20 today. Would the Court allow me to reserve a
21 few minutes for rebuttal to respond to
22 petitioner's argument?

23 THE COURT: Yes. Typically, and I
24 don't see a reason why this would not be the
25 case here, I'll allow the movant to proceed,

1 the response. Then we'll have just limited
2 to things we did not cover before, and then
3 it will conclude with the nonmoving party.

4 MS. PARDO: Thank you, Your Honor.

5 THE COURT: Sure.

6 MS. PARDO: This may be the first time
7 a court in Pennsylvania has had to entertain
8 a habeas corpus petition on behalf of an
9 elephant, but this is no first for
10 petitioner, Nonhuman Rights Project. Indeed,
11 the petitioner has brought similar habeas
12 petitions in -- in our briefs we indicated
13 six other states, but in breaking news
14 fashion, as of last week a Wisconsin court
15 now has been the seventh to also deny their
16 habeas petition on behalf of an animal.

17 But the petitioner here is asking the
18 Court to disregard and ignore each and every
19 one of those decisions in favor of a
20 dissenting opinion in New York which isn't
21 even the law there.

22 This is significant because habeas
23 corpus in all states, including Pennsylvania,
24 emerges from the English common law, and they
25 are uniform in the fact that they allow the

1 petition to be sought on behalf of a person.
2 In Pennsylvania that is codified. The right
3 is codified by statute.

4 As a matter of law, elephants have no
5 standing to petition the Court for writ of
6 habeas corpus, and that is the case
7 regardless of whether the statute applies,
8 which it absolutely does. But even if the
9 Court were to ignore the binding statute,
10 under the common law the same result would
11 occur.

12 Elephants are not eligible to petition
13 for the writ for three reasons. The first,
14 neither the statute nor the common law
15 regards nonhuman animals as persons. Two,
16 the law does not recognize elephants as
17 having fundamental rights including the right
18 to bodily liberty, to be free from
19 confinement or, for that matter, any other
20 legally protected right that is being
21 unlawfully withheld, and that is a point that
22 petitioner concedes.

23 And three, even if this Court were to
24 ignore Pennsylvania's habeas statute and
25 common law and entertain an expansion of the

1 common law, flexibility in a common law
2 habeas petition is not limitless and must be
3 analyzed within the framework of other
4 existing laws.

5 Here expansion of common law would
6 upend the entire legal construct of animals
7 and humans in society. This is so for
8 Pennsylvania and every other state in our
9 country and our federal system. In short,
10 because there is no legal basis and no
11 entitlement to relief under the habeas corpus
12 statute, the prima facie case fails, and the
13 case should go no further.

14 On this point, the highest court in New
15 York when deciding the petitioner's elephant
16 case made a particularly apt point. And in
17 commenting on the dissent that petitioner
18 favors and argues for in this case, that
19 court said that the argument in favor of
20 elephant personhood is, quote, "long on
21 historical discourse but woefully short of
22 any cogent legal analysis identifying any
23 recognizable source of a proclaimed liberty
24 right or so-called fundamental right to be
25 free." That's the Breheny decision from

1 2022.

2 And where this prima facie burden as a
3 matter of law cannot be met, the matter must
4 be summarily dismissed without hearing and
5 without reaching the merits of the petition.

6 Importantly, in determining whether
7 petitioner carried its burden to establish
8 the prima facie entitlement to habeas relief,
9 the Court must accept nonfrivolous and
10 supported facts as true but does not need to
11 assume or accept petitioner's version of the
12 law or what they want the law to be.

13 Really the starting and the finishing
14 point in this analysis, Your Honor, is the
15 Pennsylvania statute. In Pennsylvania,
16 habeas corpus is a statutory right. It is
17 statutory not only as to procedure but also
18 as to applicability, and compliance with the
19 statute interpreted in accordance with the
20 General Assembly's intent is imperative.

21 The right is codified in 42 Pa.C.S.
22 6503. That is the right to apply for the
23 writ, and it clearly states it only may be
24 brought, the petition, on behalf of a person
25 restrained of his liberty within the

1 Commonwealth under any pretense whatsoever.

2 Now, this was the version that was
3 enacted in 1976, and because of that date the
4 Statutory Construction Act applies. And what
5 the Statutory Construction Act does is supply
6 a definition of the word "person." This is
7 not distinct from the common meaning, the
8 common dictionary meaning. It is a natural
9 person and also other legal constructs that
10 are created, managed, and owned by persons,
11 corporations and such.

12 In the case of Fortune v. Dragovich, a
13 Superior Court 2001 case which we cited in
14 our briefs, that court stated the
15 availability of habeas corpus is both
16 prescribed and limited by statute. And under
17 the statute, petitioner's claim must fail
18 because elephants are not persons either
19 within the common meaning of the word or the
20 Statutory Construction Act definition, and
21 elephants are not restrained of their liberty
22 because there's no law or fundamental right
23 that is being violated by housing the
24 elephants at the Pittsburgh Zoo.

25 The petitioners concede that a

1 fundamental right to liberty has never been
2 recognized by a court before and instead is
3 asking the court to create a fundamental
4 right for elephants from whole cloth.

5 Now, Your Honor, in addition to the
6 Statutory Construction Act requiring that it
7 must be followed, requiring a common ordinary
8 meaning and also prescribing a definition for
9 the word of "person," the Statutory
10 Construction Act also compels that a statute
11 must be construed so as to glean the intent
12 of the General Assembly.

13 And here it's quite clear from other
14 statutes that the General Assembly
15 distinguishes between animals and humans.
16 There are many different statutes where
17 animals and humans are both named or animals
18 and persons are named in statutes.

19 1504, which is another section of the
20 Statutory Construction Act, states that the
21 statutory remedy is preferred over common
22 law. In all cases where a remedy is provided
23 or a duty is enjoined or anything is directed
24 to be done by the statute, the directions of
25 the statute shall be strictly pursued.

1 And on this point Commonwealth v
2 Peterkin is instructive, Supreme Court of
3 Pennsylvania, 1998. There the petitioner
4 had, notwithstanding an application under the
5 Post Conviction Relief statute, also wanted
6 to bring a petition pursuant to common law
7 and argued that that was a Constitutional
8 right to do that. And the fact that the
9 habeas statute existed post enactment of the
10 Post Conviction Relief Act meant that
11 petitioners likely could still use it.

12 Well, in that case the Supreme Court
13 said no. The fact that an alternative
14 statutory remedy applies, you cannot come in
15 and pursuant to that statute bring your
16 petition. That's important here because what
17 it means is that when a statute speaks to the
18 situation, it confines the right to what the
19 statute is saying one can do.

20 In this case petitioners want us to put
21 aside the statute and return to the common
22 law because petitioner believes that the
23 common law is more flexible. The common law
24 provides a basis for an animal being a person
25 that can seek habeas relief, but that is not

1 the case.

2 Interestingly enough, the cases that
3 petitioner cites, many are before the
4 enactment of our current habeas statute. In
5 particular, the case of Commonwealth ex rel.
6 Levin v Fair was a 1958 case. In that case
7 the petitioner quotes quite a bit from that
8 case for its language that the habeas writ is
9 elastic and that it can be adapted to suit
10 any situation.

11 Well, at the time, the habeas statute,
12 the precursor to the 1976 version, did not
13 have the "under any pretense whatsoever." So
14 in that case it was actually more narrow than
15 the common law. But now the 1976 statute, it
16 provides for all the situations that all
17 these older cases didn't, which was different
18 types of restraint, different procedural sort
19 of situations that someone was still confined
20 of their liberty, but we don't have that
21 issue now with the current habeas statute.

22 But even if this court were to
23 disregard the habeas statute entirely and the
24 Statutory Construction Act definition, the
25 outcome here would be exactly the same

1 because petitioner also fails to make a prima
2 facie case under the common law for the same
3 two key reasons: one, that elephants are not
4 persons; and two, that even at the common law
5 there is no fundamental right, no
6 Constitutional right, no rights at all for
7 animals.

8 An example of this was cited in the
9 Michigan case that Nonhuman Rights Project
10 brought against the DeYoung Family Zoo at
11 asterisk 9. The Michigan court quoted
12 Blackstone, the notable legal commentary and
13 scholar whose writings reflected the judicial
14 perspective of the time. The quote there was
15 made with respect to wild animals.

16 Blackstone, who's quoted in so many
17 habeas common law decisions, says all mankind
18 have by the original grant of the creator a
19 right to pursue and take any fowl or insect
20 of the air, any fish or inhabitant of the
21 waters, and any beast or reptile of the
22 field. And this natural right still
23 continues in every individual unless where it
24 is restrained by the civil laws of the
25 country. So even at the common law, animals

1 were not equivalent to human beings. So in
2 that respect the common law doesn't actually
3 help petitioners here even if we were to
4 ignore the statute.

5 There's countless other reasons why the
6 common law should also not be expanded, which
7 is exactly what they're asking the Court to
8 do here, and not just in one respect. The
9 Court would have to expand and equate a
10 person with an elephant or a person with an
11 animal, but it also would have to recognize
12 for the first time ever a fundamental right.

13 And why is that an issue here? Well, a
14 fundamental right to liberty for an animal
15 would really turn on its head every law we
16 have in Pennsylvania that treats animals as
17 property. That's also not unique to
18 Pennsylvania. Every other state also treats
19 animals as property as well as our federal
20 system.

21 In these expansion cases, in those
22 cases where new law or new rights are being
23 judicially created, and the petitioner has
24 cited a couple of cases where that has
25 happened, there really are two core grounding

1 principles at work there. One is a core
2 consensus of other jurisdictions that support
3 that interpretation of the law or the
4 expansion, which we do not have here; and
5 two, the Court is able to say with reasonable
6 certainty that changing or expanding a law
7 will serve the best interests of society. In
8 other words, the court asks, is there a
9 consensus in society this is what everyone
10 wants or needs or can live with?

11 And in that respect, a case that is
12 very illuminating is one that petitioner
13 cited in the petition, and that is the Marion
14 v. Bryn Mawr Trust, Pennsylvania Supreme
15 Court 2023.

16 That was a case where the court
17 recognized a new cause of action of aiding
18 and abetting fraud, and they did that for
19 several reasons. One, a number of states
20 already had recognized the very same cause of
21 action. Two, another 28 jurisdictions
22 recognized it with some variation. And so
23 the Court determined that there was abundant
24 decisional support to expand the law in
25 Pennsylvania to include that.

1 But interestingly enough, the Supreme
2 Court implied this result -- I'm sorry. The
3 third reason was because the Supreme Court
4 had implied this result in a prior decision.
5 But interestingly, the Court also said, We
6 are not breaking new ground that will set
7 Pennsylvanians scrambling to change their
8 behaviors.

9 Scrambling is an understatement if this
10 court were to expand the habeas corpus
11 statute or law to recognize the fundamental
12 right that animals, and elephants in
13 particular, have the right to bodily liberty,
14 and that is because we have so many laws that
15 illustrate that animals are property.

16 Sometimes when people hear that, that
17 sounds cold. But what many of these cases
18 have recognized is that animals are deserving
19 of protections, and they have protections in
20 the law, under animal welfare laws at the
21 federal level, the state level, and there's
22 animal cruelty and other sorts of actions.

23 But just because animals, elephants in
24 particular, a greatly appreciated, majestic
25 megafauna, does not mean that they are

1 entitled to the same rights of humans or that
2 they could even appreciate or operate in the
3 same respect that humans do when they have
4 the compact with society where they will
5 exchange and give up some of their rights in
6 order to participate in society.

7 To date, every state and the federal
8 system treat nonhuman animals as property,
9 full stop, and for that reason standing
10 cannot be established in this matter. And
11 because standing cannot be established,
12 there's no need for a hearing. In fact, the
13 case law dictates if the prima facie case
14 cannot be satisfied, and here as a matter of
15 law it cannot, then there is no right to a
16 hearing, and the case goes no further.

17 On the next friend issue, Your Honor, I
18 think we've briefed that sufficiently in our
19 papers, so we would stand on that unless, of
20 course, Your Honor has a question about next
21 friend standing.

22 THE COURT: I do not have a question
23 about it. Thank you.

24 MS. PARDO: And as a closing matter, I
25 wanted to address an important point

1 regarding confusion that has seemed to
2 develop over the court's January 23, 2026
3 order, and it's significant in terms of where
4 we are procedurally here.

5 It was our understanding from the
6 status hearing that we had and the resulting
7 order that Your Honor issued that the order
8 did not make a determination about the prima
9 facie case. During the hearing respondents
10 raised that a show cause order was premature
11 until petitioner established the prima facie
12 entitlement to relief, and this is why the
13 Court expressly included a statement in
14 paragraph 2: By issuance of this rule to
15 show cause, the Court has not made any
16 findings or determinations as to the validity
17 of petitioner's claims.

18 So, therefore, if no prima facie case
19 and no prima facie entitlement to relief has
20 been or was established, we submit that as a
21 matter of law petitioner has failed to meet
22 that burden. No show cause order should
23 issue. No hearing occurs, and respondent is
24 not required to respond to the over a hundred
25 page decision on the merits.

1 But given the fact that there has been
2 doubt raised and that's included in the
3 opposition to our motion to dismiss, it's in
4 the Court's inherent power, of course, that
5 the Court can vacate, modify, or rescind its
6 own interlocutory orders. In order to remove
7 any doubt going forward, we respectfully
8 request the Court to consider exercising its
9 power to do so.

10 I will accept the Court's invitation
11 for rebuttal time and invite the Court to ask
12 any questions about anything in our briefs or
13 anything I've discussed today.

14 THE COURT: I just want to make a point
15 about that last point because I did see
16 dedication to the briefing on the impact of
17 this Court's January 2, 2026 order.

18 I think the order is clear and speaks
19 for itself that that rule issuance did not
20 carry with it any findings or determinations
21 as to the validity of the petitioner's claim.
22 That's not only expressly in that order, but
23 the rule to show cause vehicle is frequently
24 used here in Allegheny County for many
25 reasons given the volume of issues that need

1 to be decided.

2 So there is a rule that allows us to
3 have discretionary issuances of rules to show
4 cause, and the impact of my scheduling order
5 at that time was invocation of that rule
6 which provides a vehicle for matters to be
7 reviewed by this Court. It allows discretion
8 in how the Court thinks that the matter
9 should proceed. In this particular case I
10 did give consideration to the time
11 constraints provided for under habeas corpus
12 laws.

13 So I just want to make that clear. I
14 think the order speaks for itself, but I
15 remember reviewing it at the time and
16 expressly stating at the time of our
17 conference that this was not in any way
18 determinative of the substantive issues
19 before the Court.

20 MS. PARDO: Thank you, Your Honor.

21 THE COURT: So I don't think we need to
22 address that component any further. Okay?
23 So thank you.

24 MS. PARDO: Thank you very much.

25 THE COURT: Thank you, Ms. Pardo. Now

1 we'll turn to the response. Mr. Davis, it
2 looks like you're going to take that one.

3 MR. DAVIS: Thank you, Your Honor. May
4 it please the Court, do you mind if I use the
5 lectern?

6 THE COURT: Not at all.

7 MR. DAVIS: Is that possible? I'm a
8 little taller, so it's easier for me to read
9 my material if it's a little --

10 THE COURT: As long as this green
11 circle is green, you can take that with you.

12 MR. DAVIS: Good morning, Your Honor.
13 May it please the Court, my name is Jake
14 Davis. I'm here on behalf of the petitioner,
15 Nonhuman Rights Project.

16 Your Honor, I want to make a
17 preliminary point before I get into the
18 specific reasons that respondents give for
19 denying -- excuse me -- for granting the
20 motion to dismiss, and that initial point is
21 that we are not asking this Court to make any
22 findings as to the elephants' rights here
23 today. All that we are doing at this hearing
24 is asking the Court to deny the motion to
25 dismiss. I want to explain why the Court

1 should do that.

2 Your Honor, respondents make three main
3 arguments for why the underlying petition
4 should be dismissed. Their first argument is
5 that the Court lacks subject matter
6 jurisdiction. Their second argument is that
7 the Nonhuman Rights Project lacks standing.
8 And their final argument is that the
9 underlying petition fails to set forth a
10 prima facie case.

11 With regard to the first argument, Your
12 Honor, subject matter jurisdiction,
13 respondents take what should be a very
14 straightforward legal analysis, and they make
15 it incredibly confusing. Here's what I mean.
16 They argue that the elephants not being
17 persons lack standing and, therefore, this
18 Court lacks jurisdiction. I want to break
19 that statement down into its component parts
20 beginning first with subject matter
21 jurisdiction in and of itself.

22 Your Honor, before I do that, I think
23 it would be remiss of me not to mention that
24 in their reply brief they do not one time
25 mention subject matter jurisdiction which I

1 find strange considering that is their
2 opening argument in their brief in support of
3 their motion to dismiss.

4 But nevertheless, this Court has
5 jurisdiction pursuant to Chapter 65 and under
6 its innate common law authority. 42 Pa.C.S.
7 Section 6502 subsection (a) states any judge
8 of a court of record can issue a writ of
9 habeas corpus to inquire into the cause of
10 detention of a person or for any other lawful
11 purpose.

12 And in Commonwealth versus Burke, the
13 Pennsylvania Superior Court told us that the
14 power to grant habeas corpus relief is innate
15 in our trial court because it arises from the
16 ancient common law and not statute. The
17 jurisdictional analysis could end there, Your
18 Honor, with all due respect. This Court has
19 the ability to hear any common law habeas
20 corpus case that comes before it.

21 Turning now to respondents' argument
22 within that jurisdictional framework about
23 standing, as this Court is aware, standing in
24 Pennsylvania is not a jurisdictional
25 question. We know this, Your Honor, because

1 the Pennsylvania Supreme Court told us this.
2 It told us this in Pennsylvania Gaming Board,
3 and it reiterated this point in Bisher versus
4 Lehigh Valley.

5 In the Grom versus Burgoon case, the
6 Pennsylvania Supreme Court clarified that
7 generally standing and jurisdiction are
8 distinct inquiries, but when you have a
9 statute that creates a cause of action and
10 designates who may sue, the analyses will
11 naturally become interwoven. But we know
12 habeas corpus is not a creature of any
13 statute, Your Honor, and we know this because
14 the Pennsylvania Supreme Court has told us
15 this as well.

16 In Stevens versus Myers, the
17 Pennsylvania Supreme Court wrote that the
18 writ of habeas corpus is left to the
19 development of the common law. And in Levin
20 versus Fair, the Pennsylvania Supreme Court
21 wrote you do not need to look through the
22 books for precedent as to the writ's
23 application, and that is because it could
24 be --

25 THE COURT REPORTER: I'm sorry. You're

1 going way too fast.

2 THE COURT: If you could slow down.

3 MR. DAVIS: Absolutely.

4 THE COURT: Thank you. She's got the
5 hardest job in the room.

6 THE COURT REPORTER: I was holding on
7 until you got to development of the common
8 law.

9 MR. DAVIS: I think after I made that
10 point I went to Levin versus Fair. In Levin
11 versus Fair, the Pennsylvania Supreme Court
12 wrote you do not need to look through the
13 books for precedent as to the writ's
14 application. The writ could be molded to
15 suit the exigencies of any particular case,
16 and that is because the writ is an implied
17 common law power not created by statute but
18 existing before the first habeas corpus act
19 was on the books in 1785 and existing today,
20 the Chapter 65 on the books, Your Honor.

21 Another point I want to make on the
22 standing component of respondents'
23 jurisdictional analysis, and that is
24 individuals on who habeas corpus cases are
25 brought on behalf of do not need to have

1 standing in their own capacity. This is
2 consistent with the historical application of
3 the writ.

4 What this means practically, Your
5 Honor, is that the elephants themselves do
6 not need to have standing. A great example
7 of what this looks like in application is the
8 case of Somerset v Stewart. The Pennsylvania
9 Supreme Court recognized Somerset versus
10 Stewart as part of Pennsylvania common law in
11 Kauffman versus Oliver.

12 In that case a group of abolitionists
13 filed a habeas corpus petition on behalf of
14 James Somerset who was an enslaved man. The
15 chief judge of King's Bench at the time,
16 understanding that Mr. Somerset would not be
17 able to bring the case of his own volition,
18 still issued the writ, allowed the case to
19 proceed to a merits hearing, and ultimately
20 granted Mr. Somerset his freedom.

21 But again, Your Honor, Mr. Somerset did
22 not have standing in his own right, and this
23 is consistent with what the preeminent habeas
24 corpus scholar in our country writes in his
25 book, Habeas Corpus: From England to Empire.

1 He writes that in English common law,
2 what in modern law we call standing, simply
3 is not an issue. That is consistent with how
4 the law works with habeas corpus here today.

5 So, Your Honor, that brings us to
6 respondents' final argument in support of
7 their lack of subject matter jurisdiction
8 statement, and that's personhood. Your
9 Honor, if standing is not a jurisdictional
10 question, then that means that elephant
11 personhood which grounds respondents'
12 elephant standing argument is not a
13 jurisdictional question either. And if
14 elephant personhood is not a jurisdictional
15 question, then it has to be a merits question
16 left for a merits hearing.

17 Elephant personhood will likely be the
18 only topic focused at a merits hearing if
19 this motion to dismiss is defeated, but it is
20 irrelevant to respondents' argument that the
21 Court does not have jurisdiction; however,
22 Your Honor, I actually would like to discuss
23 why they are wrong about personhood because
24 counsel for respondents spent a lot of time
25 on it if the Court will allow me.

1 Your Honor, respondents' most
2 fundamental error in their briefing is that
3 they treat the question of the elephants'
4 personhood as one of statutory interpretation
5 as opposed to one to be decided under the
6 common law. I want to make two preliminary
7 points before I get further into this
8 analysis.

9 The first preliminary point is that
10 personhood -- that is, whether the elephants
11 are persons for habeas corpus relief, whether
12 they fall under that term in Chapter 65, that
13 is a common law question because habeas
14 corpus is a common law writ.

15 The second point I want to make is that
16 the term "person," just stepping back,
17 speaking generally right now, the term
18 "person" merely denotes a relevant rights
19 holder. So, for example, if this case were
20 to go to a merits hearing, if this Court were
21 to ultimately find that the elephants do have
22 the common law right to bodily liberty
23 protected by habeas corpus, they would
24 necessarily become persons for purposes of
25 habeas corpus relief. Legal personhood just

1 means you have capacity for a legal right or
2 you possess at least one legal right. That's
3 all it means.

4 So, Your Honor, we come back to
5 respondents' personhood argument, and I want
6 to make an important point. The Pennsylvania
7 suspension clause found in Article I,
8 Section 14 of this state's Constitution, it
9 preserves habeas corpus as a common law writ
10 and thereby preserves the common law writ's
11 common law nature.

12 The common law nature of habeas corpus,
13 Your Honor, precludes deciding this case
14 under a statutory definition, and so let's
15 turn to the Statutory Construction Act which
16 respondents spent a lot of time focusing on.

17 Your Honor, what respondents fail to
18 mention in their argument and what they fail
19 to mention in their briefing is that the
20 Statutory Construction Act has a
21 qualification at the top of the act. That
22 qualification states that the definitions
23 only apply unless the context clearly
24 indicates otherwise.

25 That qualification has to be read into

1 any analysis of the term "person" as found in
2 Chapter 65 because of the writ's common law
3 nature -- in other words, its common law
4 context.

5 A secondary point, Your Honor, which is
6 something I just want to mention for context
7 is that the respondents' claim that the
8 definition of "person" as found in the
9 Statutory Construction Act excludes
10 elephants. Now, personhood is a merits
11 question. It's not relevant to the
12 proceedings here today, but respondents make
13 this argument that the term excludes
14 elephants.

15 But that is not true, Your Honor. The
16 term "person" states that it includes and
17 then lists ten entities. Nine of those ten
18 entities are not human entities, which is an
19 aside, but it is that term "includes" that is
20 key.

21 As the Pennsylvania Superior Court told
22 us in Braun versus Wal-Mart Stores, Inc., the
23 term "includes" is to be viewed as a term of
24 enlargement, not limitation, and that's
25 consistent with what Black's Law Dictionary

1 says about the term "includes," and that is
2 it merely denotes a partial list. So does
3 the Statutory Construction Act as far as the
4 definition of personhood exclude elephants?
5 It does not.

6 Your Honor, respondents make a backup
7 personhood argument, and they spent some time
8 focused on that just now, and that's the lack
9 of precedent argument. That is, there's no
10 precedent for granting elephants this right
11 to bodily liberty.

12 Again, and I'll say this at the risk of
13 ad nauseam, personhood is a merits question,
14 so it's not relevant to these proceedings.
15 It's not relevant to whether the motion to
16 dismiss is granted or denied.

17 But it's this lack of precedent
18 argument that respondents rely on greatly,
19 Your Honor. Lack of on point precedent
20 cannot justify summarily denying relief
21 because this is a common law case. In other
22 words, respondents' argument is fundamentally
23 antithetical and disregards the evolutionary
24 nature of the common law.

25 Your Honor, in Hack versus Hack, the

1 Pennsylvania Supreme Court told us that one
2 of the great virtues of the common law is its
3 dynamic nature that makes it adaptable to the
4 requirements of society at the time of its
5 application. We can think of the common law
6 simply not being static.

7 As the great writs history shows, Your
8 Honor, novel common law cases challenging
9 unjust confinement of individuals with few or
10 no legal rights can and have succeeded. We
11 saw this in Somerset versus Stewart. And as
12 the chief judge of the New York Court of
13 Appeals eloquently put in his dissenting
14 opinion in Breheny, a novel habeas corpus
15 case freed an enslaved person. A novel
16 habeas corpus case removed a woman from the
17 subjugation of her husband. A novel habeas
18 corpus case removed a child from the
19 presumptive dominion of her father and
20 transferred her to the custody of another.

21 Novel common law cases, of which habeas
22 is a subset, have advanced the law in
23 countless areas. And, Your Honor, this case
24 seeks to address a manifest injustice. And
25 as the Pennsylvania Superior Court tells us

1 in H.S. versus Kumar, the novelty of an
2 asserted right and the lack of common law
3 precedent are no reason for denying that
4 right's existence.

5 Your Honor, respondents also mentioned
6 the cases that we have brought in other
7 states that have ruled against us. I don't
8 need to tell this Court that none of those
9 cases have precedential value.

10 But here's the thing about those cases.
11 Those cases lack persuasive value for this
12 Court because relying on them would require
13 this Court to disregard Pennsylvania's most
14 sacred principles and values, and let me
15 explain why.

16 On one hand you have a series of cases
17 that the court found against us that
18 recognized the writ as a statutory remedy.
19 You have another set of cases that recognize
20 that the writ was a common law writ and that
21 it was subject to a common law evolution, but
22 they refuse to evolve the common law. And so
23 for this Court to rely on either of those two
24 positions would be to disregard Pennsylvania
25 Supreme Court precedent.

1 In the first instance, viewing habeas
2 corpus as a statutory remedy, this Court
3 would be disregarding Levin versus Fair and
4 Stevens versus Myers and Commonwealth versus
5 Burke, which is a Superior Court decision,
6 and other causes.

7 If this Court were to say, Okay, I
8 agree habeas corpus is a common law writ, I
9 understand the common law falls, but I'm
10 going to refuse to evolve it, this Court
11 would be violating cases like Flagiello
12 versus Pennsylvania Hospital,
13 F-l-a-g-i-e-l-l-o. This Court would be
14 disregarding cases like Hack versus Hack and
15 HS versus Kumar among others.

16 It is actually the opinion of Judge
17 Wilson, who is now the chief judge of the New
18 York Court of Appeals, his colleague Judge
19 Jenny Rivera and their former colleague Judge
20 Eugene Fahey, that comport with Pennsylvania
21 principles and values, specifically
22 Pennsylvania recognizing habeas corpus as a
23 common law writ and recognizing the
24 evolutionary nature of the common law.

25 THE COURT: Slow down please,

1 Mr. Davis.

2 MR. DAVIS: You got it.

3 THE COURT: Thank you.

4 MR. DAVIS: So that brings us to
5 respondents' second contention, Your Honor.
6 We've just gone through subject matter
7 jurisdiction and all the backup arguments
8 they have for that argument.

9 Respondents' second argument for
10 dismissing the underlying petition is that
11 the Nonhuman Rights Project lacks next friend
12 standing. Specifically they argue that we
13 lack next friend standing because we lack a
14 significant relationship with the elephants.
15 Your Honor, what this argument does is it
16 effectively asks this Court to disregard the
17 plain language of Chapter 65 and evaluate
18 this case under an irrelevant standing,
19 specifically the Post-Conviction Relief Act.

20 As an initial matter, Your Honor, the
21 NHRP has standing pursuant to Chapter 65,
22 specifically 42 Pa.C.S. Section 6503
23 subsection (a), which allows a habeas corpus
24 case to be brought by a person restrained of
25 their liberty or on behalf of that person.

1 And, Your Honor, this language comports with
2 historical application of the common law writ
3 as we saw in Somerset versus Stewart. And
4 Paul Holiday, our habeas corpus expert -- not
5 ours literally but a habeas corpus expert,
6 Your Honor -- he writes that anyone could
7 tell a story to touch off the writs issuance.
8 Who told the story mattered little, if at
9 all.

10 And, Your Honor, I want to pivot just
11 for a minute and go to the briefing on this
12 issue because I think it's very telling. In
13 their brief supporting the motion to dismiss,
14 respondents write, and I quote, "Critically
15 the PCRA subsumes habeas relief," and then
16 they cite Commonwealth versus Peterkin.

17 They go on to say, and I quote,
18 "Accordingly, the Pennsylvania Supreme Court
19 has made clear that a third party petitioner
20 seeking relief on behalf of another under the
21 PCRA, including relief traditionally sought
22 pursuant to habeas corpus, must first
23 establish next friend standing."

24 In our opposition, Your Honor, as
25 you're aware, we challenge them on this

1 unqualified assertion calling it false that
2 the PCRA subsumes all habeas relief. Even
3 their case Commonwealth versus Peterkin tells
4 us that the PCRA subsumes a remedy of habeas
5 corpus only for the claims that fall within
6 the scope of the PCRA, but the legislature in
7 enacting the PCRA intended -- and this is
8 language from the case -- intended for the
9 common law writ to continue as a separate
10 remedy for claims that fall outside the PCRA.

11 (Fire alarm sounds.)

12 THE COURT: We're going to have to take
13 a brief recess. Everyone just stay put for a
14 moment. We'll get some clarity on what that
15 emergency sound was.

16 (Building evacuated.)

17 - - -

18 THE COURT: Well, being on the eighth
19 floor has its disadvantages. I apologize
20 that everyone got some extra exercise, but
21 better safe than sorry. We didn't know what
22 was going on there for a while. I believe it
23 was a test that no one was notified about.

24 Mr. Davis, when you're ready to proceed
25 with your argument, please go ahead.

1 MR. DAVIS: Thank you, Your Honor.

2 So just as a reminder, we covered
3 respondents' argument related to this Court
4 not having subject matter jurisdiction.
5 We're now on the argument regarding Nonhuman
6 Rights Project standing, and I was directing
7 the Court to the briefing because I find it
8 very informative.

9 What I was saying was respondents in
10 their brief in support of their motion to
11 dismiss argued that the PCRA subsumes all
12 habeas corpus relief, and because a
13 significant relationship requirement has been
14 read into PCRA cases, they argued it must --
15 that was their word -- be read into common
16 law habeas corpus cases.

17 And after we challenged them on that
18 point, Your Honor, they changed their tune
19 significantly in their reply and accused us
20 of mischaracterizing or missing the point of
21 their argument. And they said, and I quote,
22 "The position that respondents have taken is
23 that the Court should require a petitioner to
24 demonstrate next friend standing."

25 Your Honor, this is tantamount to a

1 concession that a significant relationship
2 requirement does not apply when dealing with
3 Chapter 65. The respondents actually take it
4 a step further, and they argue that if the
5 Pennsylvania Supreme Court was evaluating
6 this question, they would require significant
7 relationship standard.

8 But of course that's not how legal
9 analysis works. You don't argue what a court
10 you're not appearing in front of could,
11 would, or should do. You argue what the
12 court you're appearing in front of can and
13 cannot do.

14 And with great respect, Your Honor,
15 this Court cannot read a significance
16 relationship requirement into Chapter 65
17 because it would be contrary to the plain
18 meaning of the statute, and it would be
19 inconsistent with the historical application
20 of the writ and respondents' statement of no
21 authority saying it should be read into
22 Chapter 65.

23 So, Your Honor, that brings me to my
24 final point on the next friend contention,
25 and that is about child custody habeas corpus

1 cases. Respondents attempt to analogize this
2 case to one dealing with child custody, and
3 in the child custody context a significant
4 relationship requirement has been read into
5 standing requirements for the moving party.

6 But the problem with that analysis is
7 child custody cases in the habeas corpus
8 context are inapposite to this type of case,
9 Your Honor, and that is because standing in
10 the child custody context concerns a prima
11 facie right to relief based on kinship such
12 as blood relation. Also in a child custody
13 habeas corpus case, you are seeking
14 possession of the child.

15 Your Honor, we have asked that these
16 elephants be evaluated for rewilding or
17 removal from the Pittsburgh Zoo to an
18 accredited elephant sanctuary. We have no
19 intention of possessing these elephants, and
20 so the child custody analogy must fail.

21 So, Your Honor, we have covered subject
22 matter jurisdiction, and we have covered why
23 personhood is not a jurisdictional
24 requirement meaning personhood is for a
25 merits determination. We have covered next

1 friend standing and why respondents' argument
2 about a significant relationship must fail,
3 which brings me to respondents' final
4 argument, that the petition fails to set
5 forth a prima facie case.

6 Specifically, Your Honor, they argue
7 that the petition fails to make a prima facie
8 case entitling the elephants to release
9 because the elephants are not unlawfully
10 confined and the petition is not seeking
11 their freedom from captivity.

12 I will just mention before I get into
13 that analysis, Your Honor, it appeared to me
14 that counsel for the respondents was actually
15 conflating the prima facie case with standing
16 and all the references in between of
17 personhood. So I just want to make sure the
18 Court is aware that standing and the prima
19 facie evaluation are separate, distinct
20 issues.

21 As an initial point, Your Honor, a
22 confinement that violates no statutory right
23 and is otherwise legal can still be illegal
24 under the common law, and we saw that in
25 Somerset versus Stewart. I'll mention this,

1 Your Honor, because I feel I'd be remiss if I
2 didn't. Respondents in their rely, they do
3 not address our Somerset versus Stewart
4 argument at all.

5 So, Your Honor, that brings me to the
6 main point which is the petition does make a
7 prima facie case that the elephants'
8 confinement is unlawful and they are entitled
9 to release because it establishes that the
10 elephants have the common law right to bodily
11 liberty protected by habeas corpus and their
12 confinement at the Pittsburgh Zoo was
13 unlawful because it violates the common law
14 right by preventing the elephants from
15 engaging in normal autonomous behavior.

16 And here's the key point with regard to
17 the prima facie evaluation: At this
18 procedural posture, the Court can assume
19 without deciding that the elephants have the
20 right to bodily liberty because that
21 assumption accords with historical practice
22 of habeas corpus like in Somerset versus
23 Stewart, and this Court should make that
24 assumption because we have established
25 through our petition that the elephants are

1 autonomous.

2 And again, I would be remiss if I
3 didn't mention this. Respondents in their
4 reply brief do not address the assumption
5 without deciding argument. And so, Your
6 Honor, the facts set forth in the petition,
7 which have to be accepted as true at this
8 procedural posture, demonstrate that the
9 elephants are being deprived of their ability
10 to meaningfully exercise their autonomy, and
11 such a deprivation violates their right to
12 bodily liberty. Therefore, it is irrelevant
13 whether or not we allege violations of state
14 cruelty codes or federal cruelty codes, Your
15 Honor.

16 As the Pennsylvania Supreme Court has
17 told us in *In Re Williamson*, as they have
18 told us in *Penland versus Ashe*, as the
19 Pennsylvania Superior Court has told us in
20 *Tokarchik* -- that's T-o-k-a-r-c-h-i-k --
21 versus *Claudy*, a writ of habeas corpus may
22 not be refused by one who makes a prima facie
23 case entitling them to discharge.

24 Your Honor, respondents also allege
25 that we are not seeking appropriate habeas

1 corpus relief, but of course that is wrong as
2 well because we are asking that the elephants
3 be evaluated for rewilding, which would be
4 setting them at their liberty.

5 Your Honor, even if the elephants were
6 not able to be rewilded and they had to be
7 transferred to a sanctuary accredited by
8 GFAST, which stands for the Global Federation
9 of Animal Sanctuaries, that transfer from one
10 form of confinement to another would still be
11 permissible through habeas corpus because the
12 Pennsylvania Supreme Court has told us this
13 as well.

14 In DiEmilio versus Shovin, the Court
15 allowed an individual who petitioned for
16 habeas relief to be removed from a maximum
17 security psychiatric hospital to a form of
18 confinement less onerous. In Bryant versus
19 Hendrick, the Pennsylvania Supreme Court
20 allowed two habeas corpus petitioners to be
21 removed from one form of confinement to
22 another form of confinement. And in
23 Commonwealth versus Ross, the court of Oyer
24 and Terminer, which I understand is the
25 precursor to the Commonwealth Court, said

1 that habeas corpus is recognized as being a
2 proper motive of removal of a prisoner from
3 one place to another.

4 And of course, Your Honor, you have the
5 Levin versus Fair case, which is a
6 Pennsylvania Supreme Court case which says
7 the writ can be molded to suit the exigencies
8 of any particular situation.

9 Your Honor, two final points. Then I
10 will move off this lectern. The first is in
11 response to something counsel for the
12 respondents said, which is we are asking this
13 court to create a new record. As a reminder,
14 we are not asking this Court to make any
15 determinations as to whether the elephants
16 have the right to bodily liberty here today.

17 We are merely trying to convince the
18 Court that respondents' argument about
19 subject matter jurisdiction is wrong,
20 respondents' argument about standing is
21 wrong, and that their argument about the
22 prima facie case is wrong.

23 But ultimately if this Court got to the
24 point where it wanted to grant the elephants
25 their right to bodily liberty, that would not

1 be recognizing a novel right, Your Honor.
2 That would be extending a preexisting right,
3 a right all of us are born with.

4 Your Honor, the final point I want to
5 make is an important one related to the
6 dynamic of habeas corpus as a common law writ
7 and what Chapter 65 does. The question of
8 the elephants' personhood, meaning whether
9 they have the common law right to bodily
10 liberty protected by habeas corpus, is about
11 the substantive scope of the common law writ.
12 In other words, personhood is inherently a
13 common law question and is not answered by
14 any statutory authority. The question of
15 standing, who can file a case on behalf of
16 the elephants, is a procedural question
17 governed by statute, specifically Chapter 65.

18 Your Honor, you do not need to take my
19 word for the dynamic that the common law writ
20 lives in because in Stevens versus Myers the
21 court spoke about what habeas corpus acts do.
22 And it does not matter that that case was
23 talking about the act of 1951, which is
24 substantively the exact same as Chapter 65.

25 In that case the Pennsylvania Supreme

1 Court wrote habeas corpus acts only govern
2 venue and minor regulations of procedure.
3 The substance of the writ is left to the
4 development of the common law.

5 Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Davis.
7 Ms. Pardo?

8 MS. PARDO: Thank you, Your Honor.

9 The judge in *Somerset v Stewart*
10 obviously was not aware of the centuries of
11 law that likely followed and that is
12 enshrined in Pennsylvania law today and that
13 standing is a justiciability concern that is
14 often dealt with at the outset of a case and
15 as a matter of law, which is exactly what
16 we're asking the Court to do here, and is
17 exactly what has happened in every other case
18 where the Nonhuman Rights Project has brought
19 a habeas petition. It's been dismissed as a
20 matter of law based on standing at the outset
21 of the case except for New York who actually
22 went further down the chain of litigating.

23 And why is standing so important?
24 Well, it's enshrined in Pennsylvania law
25 because according to the *Papenfuse* case,

1 Supreme Court 2021, it's to weed out improper
2 plaintiffs. The touchstone of standing is
3 protecting other litigants against improper
4 plaintiffs, and a court must resolve
5 justiciability concerns before addressing the
6 merits, and that is Pennsylvania Supreme
7 Court law.

8 Standing implicates the court's ability
9 to adjudicate a case and to go forward. So
10 it is actually completely not in accordance
11 with standing and the justiciability of a
12 case. The Nonhuman Rights Project is asking
13 you to volley over that, the Court to volley
14 over that and head to a merits hearing. That
15 is simply not how the doctrine of standing
16 works.

17 And here absolutely the standing
18 analysis applies to the elephants. Standing
19 always applies to the entity that is trying
20 to take advantage of the relief. And here,
21 because the elephants are ineligible as a
22 matter of law to seek habeas relief, the case
23 can go no further.

24 Your Honor, regarding the habeas
25 statute, once again the habeas statute is not

1 allowed to be rewritten, and the court has
2 made that clear. Tellingly the Nonhuman
3 Rights Project has not given the Court any
4 authority whatsoever to show that the General
5 Assembly's intent was to equate an animal
6 with a human. That is a stumbling block as a
7 matter of law that this Court absolutely can
8 rule on right now.

9 Regarding the fundamental right,
10 animals don't have fundamental rights in
11 Pennsylvania or anywhere else. The United
12 States Constitution, We the People, does not
13 give rights to animals, nor does the
14 Pennsylvania Constitution. It absolutely
15 would be creating a fundamental right from
16 whole cloth. And we submit, Your Honor, that
17 if the Court were to do that, the Court would
18 have to follow all the other case law that
19 indicates when that is actually appropriate.

20 A point about the subject matter
21 jurisdiction analysis, Your Honor, we
22 mentioned that phrase one time in our brief
23 and focused on standing the rest of the
24 times. But the reason why we did bring up
25 subject matter jurisdiction was because of

1 the statute, and petitioners have cited a
2 case in their very own briefs that said where
3 a right is conferred by statute and someone
4 cannot meet the demands of that statute, then
5 it is a subject matter jurisdiction issue.

6 But the standing issue applies whether
7 the statute applies or common law applies, so
8 standing is sort of the uniting factor that
9 removes the justiciability and ability for
10 this Court to adjudicate it.

11 I just also want to correct one thing.
12 In terms of the reference to the PCRA, the
13 Post Conviction Relief Act, saying that it
14 must apply, yes, it must apply when we're
15 talking about prisoners that are in the post
16 conviction. That is the only route unless
17 the exception is met. And so that concept as
18 well as the child custody concept of having
19 next friend standing is an important public
20 policy.

21 I direct Your Honor to the case of
22 Naruto, the selfie monkey out in California
23 in the Ninth Circuit. And the reason that
24 they highlighted that case is because the
25 animal activist group there, PETA, seemed to

1 employ the monkey as an unwitting pawn in its
2 ideological goals, highlighting very
3 important public policy concern that if we're
4 talking about expanding the law, which is
5 what petitioner wants to do, it's a very
6 practical guardrail on this type of case that
7 is brought on behalf of an animal that
8 obviously cannot indicate whether it is
9 aligned with or is in favor of the rights
10 that the petitioner is trying to assign to
11 them.

12 With that, Your Honor, unless you have
13 questions, I conclude my argument.

14 THE COURT: Thank you. No questions.
15 Mr. Davis?

16 MR. DAVIS: Thank you, Your Honor.
17 Just a couple points, the first being about
18 Somerset versus Stewart. As I mentioned in
19 my argument, Somerset versus Stewart was
20 recognized as part of Pennsylvania common
21 law, and I believe the Pennsylvania Supreme
22 Court in Kauffman versus Oliver said
23 something along the lines of the promise it
24 will always be part of this law. I'd have to
25 look for the exact language, but Somerset

1 versus Stewart is still good law in the
2 state.

3 Your Honor, standing is not a
4 jurisdictional question. The Pennsylvania
5 Supreme Court told us that in the cases I
6 mentioned, the Pennsylvania Gaming Board
7 case, Bisher versus Lehigh Valley. And in
8 Grom versus Burgoon, they clarify the dynamic
9 between standing and jurisdiction, but
10 obviously that doesn't apply here because
11 habeas corpus is a common law writ.

12 Your Honor, it's incorrect that the
13 elephants themselves need standing. That
14 would be contrary to the historical
15 application of the writ. The only individual
16 that needs standing is the one bringing the
17 case on the individual that's detained's
18 behalf.

19 Your Honor, I will remind the Court
20 politely and humbly that this is not a merits
21 argument. So personhood is not relevant to
22 these proceedings. All that is relevant is
23 whether the Court has subject matter
24 jurisdiction, whether the Nonhuman Rights
25 Project has standing, and whether the

1 underlying petition sets forth a prima facie
2 case.

3 Your Honor, counsel's absolutely right
4 that the habeas corpus statute is not allowed
5 to be rewritten. We agree with that. I may
6 have even mentioned that in my opening
7 argument. It is respondents that want to add
8 a significant relationship requirement to
9 that statute, and we are asking the Court not
10 to do so.

11 Your Honor, we are not equating animals
12 with humans. We are seeking a single liberty
13 interest right on behalf of these elephants.
14 That does not mean the elephants can vote.
15 It does not mean the elephants can now drive
16 or bear arms. It means they would have a
17 liberty interest, a single right.

18 Your Honor, counsel's representation
19 that the PCRA must apply to this case is
20 contrary to the case they cite, Commonwealth
21 versus Peterkin, which is a Pennsylvania
22 Supreme Court case which says the Post
23 Conviction Relief Act applies only for claims
24 that fall within its scope, but the common
25 law writ remains a separate remedy.

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.

1 THE COURT: So I already have an order
2 coordinating, and that has been effectuated,
3 I believe. Is there any opposition to this
4 request that it clarifies that it also
5 addresses both actions?

6 To me that action is subsumed already,
7 but I will have to look at the procedural
8 framework.

9 MR. McLANE: That was our opinion,
10 Judge, but I thought it wouldn't be smart for
11 us all to go our different ways without
12 addressing it today.

13 THE COURT: So the order will also
14 provide this includes the case that has been
15 transferred from Somerset County. Okay. Any
16 opposition to that addition?

17 MR. DAVIS: No objections, Your Honor.

18 THE COURT: Okay. Thank you, everyone.

19 MR. McLANE: Thank you, Your Honor.

20 - - -

21 (Whereupon, the proceedings were concluded.)

22 - - -

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ALLEGHENY }

CERTIFICATE OF REPORTER

I, Mary Beth Perko, RMR, do hereby certify that the evidence and proceedings are contained fully and accurately in the machine shorthand notes taken by me at the hearing of the within cause, and that the same were transcribed under my supervision and direction, and that this is a correct transcript of the same.

Official Court Reporter
Court of Common Pleas

The foregoing record of the proceedings upon the hearing of the above cause is hereby approved and directed to be filed.

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2026, a true and correct copy of the foregoing Notice of

Appeal was served via email to the following recipients:

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