



Nonhuman Rights Project

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NONHUMAN RIGHTS PROJECT (NhRP) SUCCESSFULLY COMPLETES ORAL ARGUMENT IN APPEAL OF INTERNATIONALLY RENOWNED “TOMMY” CHIMPANZEE CASE

~Five appellate judges question NhRP Founder Steven Wise in a packed courtroom~

~Decision expected in 4-6 weeks~

Oct. 9, 2014 – Albany, NY – Oral argument was heard yesterday in the New York Supreme Court, Appellate Division, Third Judicial Department in the “Tommy” case filed in December 2013 by the Nonhuman Rights Project (NhRP) demanding that the court issue a writ of *habeas corpus* and grant him the right to bodily liberty.

Five appellate judges (Presiding Justice Karen Peters, Justice John Lahtinen, Justice Elizabeth Garry, Justice Robert Rose, and Justice Michael Lynch) were well informed and actively engaged, questioning the NhRP founder Steven M. Wise for twice the allotted time scheduled to hear the case, while a crowd of over 120 members of the media and supporters looked on. For virtually the entire time, the panel asked questions that went to the heart of the case.

A sample of some of the questions and summary of answers is listed below (PLEASE NOTE: these are not quotes or verbatim questions/answers):

Q: Isn't legal personhood just about human beings?

A: No. The New York Court of Appeals has made it clear that legal personhood is not synonymous with human being. Legal personhood means that the entity counts in civil law. Using the same sources as the New York Court of Appeals, there many examples of legal persons that are not human beings including a river, a religious holy book, and a mosque.

Q: Why not go to the legislature with these cases?

A: The courts and legislatures are co-equal branches. Either branch could act. Whatever the legislature may or may not do, this court has a duty to recognize that Tommy is a common law person entitled to a writ of *habeas corpus*.

Q: Aren't you asking that Tommy go from one form of confinement to another?

A: One of the sanctuaries we'd like him to go to is Save the Chimps sanctuary in Florida. They created an artificial lake and 13, three-acre islands. On which, the chimpanzees live in groups of 20-25. This is as close to the wild as possible within North America. Tommy is currently being held in solitary confinement in a cage in a room in a warehouse-type structure with a small portable television.

Q: Why isn't the ASPCA or some other animal welfare organization involved?

A: We're not claiming that this is a welfare issue; we are claiming that Tommy is entitled to a writ of *habeas corpus* because he is being unlawfully imprisoned and therefore being deprived of his fundamental common law right to bodily liberty.

Q: Have you asked the respondent to voluntarily relinquish the chimpanzee?

A: Yes, we asked him twice, in writing, and offered to help send Tommy to one of the designated sanctuaries. We said that we would drop the case if the respondent agreed, but he refused.

Mr. Wise's closing comments were as follows: "The uncontroverted facts demonstrate that chimpanzees possess the autonomy and self-determination that are supreme common law values that the writ of *habeas corpus* was constructed to protect. Both common law liberty and equality entitle him to common law *habeas corpus* personhood within the meaning of Article 70. This court should reverse and remand with an Order for the Supreme Court to issue the Order to Show Cause and proceed under Article 70."

Prior to yesterday's events, in July 2014, the appellate court issued a ruling indicating that it takes Tommy's case seriously. The 4-judge panel voted unanimously to grant a preliminary injunction that prevents Tommy's "owners" from removing him from New York State pending the completion of all appeals or further order of the court. In order to obtain this injunction, the NhRP had to demonstrate that it was likely to prevail on the merits of the appeal. With this decision, the court has indicated that this appeal has a reasonable chance of success.

A decision is expected in 4-6 weeks.

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BACKGROUND

The "Tommy" case is one of three cases filed by the NhRP in December 2013 and are first-ever lawsuits on behalf of captive chimpanzees. The suits are based on 100 pages of affidavits filed by scientists demonstrating that chimpanzees are self-aware and autonomous, and therefore entitled to be recognized as "legal persons" with certain fundamental legal rights.

The lawsuits ask the judge to grant the chimpanzees the right to bodily liberty and order that they be moved to a North American Primate Sanctuary Alliance sanctuary member or "Save the Chimps," the world's largest chimpanzee sanctuary located in Fort Pierce, FL, where they can live out their days with others of their kind in an environment as close to the wild as is possible in North America.

"No one has ever demanded a common law legal right for a nonhuman animal, until now," said Steven M. Wise, founder and president of the Nonhuman Rights Project. "When we go to court on behalf of the first chimpanzee plaintiffs, we'll be asking judges to recognize, for the first time, that these cognitively complex, autonomous beings have the basic legal right to not be imprisoned."

Legal claims made by the Nonhuman Rights Project are rooted in genetic, cognitive, physiological, evolutionary and taxonomic evidence that the plaintiffs are self-aware and autonomous. The species has been studied long and extensively by some of the world's most well-respected scientists. The organization is seeking rights that are appropriate for the plaintiffs based on existing scientific evidence.

"Not long ago, people generally agreed that human slaves could not be legal persons, but were simply the property of their owners," attorney Wise continued. "We are asserting, based on clear scientific evidence, that it's time to take the next step and recognize that these nonhuman animals cannot continue to be exploited as the property of their human 'owners.'"

The four captive chimpanzee plaintiffs*, all located in the state of New York, are:

- Tommy – a 26-year-old chimpanzee living in a used trailer lot in Gloversville, NY, isolated in a cage in a dark shed on the owner's property.
- Kiko – a 26-year-old chimpanzee living in Niagara Falls, NY, on private property where he is caged. He was previously used in the entertainment industry. The appeal in this case is scheduled in Rochester, NY, on December 2.
- Hercules and Leo – two young male chimpanzees owned by New Iberia Research Center, used in biomedical research experiments in the Anatomy Department at Stony Brook University in Stony Brook, NY.

The three cases are the beginning of a strategic litigation campaign throughout the United States on behalf of captive animals who are scientifically proven to be self-aware and autonomous. Those include great apes (gorillas, chimpanzees, orangutans and bonobos), elephants and cetaceans (dolphins and whales).

About the Nonhuman Rights Project

The Nonhuman Rights Project (NhRP) is the first and only legal organization demanding that, based on scientific evidence, courts recognize the entitlement of certain nonhuman animals to such basic rights as bodily liberty and bodily integrity. Comprised of attorneys, legal experts, and scientists including renowned anthropologist Jane Goodall, who is considered to be the world's foremost expert on chimpanzees, the Nonhuman Rights Project is focused on raising awareness and educating the public about rights for nonhuman animals. The organization uses the common law, not legislation, to gain legal rights for great apes, elephants and cetaceans (dolphins and whales).

Nonhuman Rights Project Founder, attorney Steven M. Wise, began his mission to gain rights for nonhuman animals in 1985. He holds a J.D. from Boston University Law School and a B.S. in chemistry from the College of William and Mary. He has practiced animal protection law for 30 years and is admitted to the Massachusetts Bar. Professor Wise has taught "Animal Rights Jurisprudence" at the Harvard Law School and several other law schools, and is currently teaching at Lewis and Clark Law School, Vermont Law School and St. Thomas Law School. He is the author of four books: *Rattling the Cage – Toward Legal Rights for Animals*; *Drawing the Line – Science and the Case for Animal Rights*; *Though the Heavens May Fall – The Landmark Trial That Led to the End of Human Slavery*; and *An American Trilogy – Death, Slavery, and Dominion Along the Banks of the Cape Fear River*.

The Nonhuman Rights Project has captured the interest of dozens of well-respected lawyers, scientists, mathematicians, biologists, predictive analytics professionals, professors, and researchers who donate their time and energy to this project.

For more information on the Nonhuman Rights Project, please visit www.nonhumanrightsproject.org.

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*Note: Three of the plaintiff chimpanzees selected by the Nonhuman Rights Project all died in captivity before the organization was able to file its first lawsuits.
