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Petitioner: NONHUMAN RIGHTS PROJECT, INC. v. **Respondents:** CHEYENNE MOUNTAIN ZOOLOGICAL SOCIETY and BOB CHASTAIN	Case No. 2024SA21
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BRIEF FOR *AMICI CURIAE* LAW PROFESSORS IN SUPPORT OF PETITIONERS-APPELLANTS NONHUMAN RIGHTS PROJECT, INC.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28, C.A.R. 32, and C.A.R. 29.

This brief complies with the word limits set forth in C.A.R. (g) as it contains 4,744 words.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28, C.A.R. 32, and C.A.R. 29.

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I. STATEMENT OF INTEREST OF AMICI CURIAE

Amici curiae are 24 law professors from across the country and Canada who teach and research in the rapidly evolving field of animal law. *Amici* have a special expertise in the issues presented by this case and a special interest in assisting the Court in grappling with the foundational jurisprudential issues that this case raises. Based on their interest in ensuring the field of animal law develops according to rational principles of justice that are consistent with our legal system's commitment to equality and liberty, *Amici* write to situate this case in the broader legal landscape. *Amici* respectfully urge the Court to reverse the District Court's dismissal of the petition for a writ of habeas corpus by the Nonhuman Rights Project ("NHRP") and remand with instructions to grant the petition.

II. SUMMARY OF THE ARGUMENT

This brief argues that developments in law, ethics, and science warrant the inclusion of at least some nonhuman animals, including Missy, Kimba, Lucky, LouLou, and Jambo, in the community of legal rights-holders who are entitled to justice. As such, this brief argues that the Court should reverse the District Court's dismissal of NHRP's petition for a writ of habeas corpus.

The District Court's decision was erroneous because it stretched existing law to make a sweeping decision that animals are categorically excluded from the protections of personhood. As the District Court frankly acknowledged, its ruling

was grounded in an undertheorized social contractarianism in which only human beings are persons, simply because they happen to be part of the social compact. This brief cautions against overreading the scant existing case law in a nascent area of law like animal personhood and adopting an exclusionary legal framework.

This brief argues that instead of grounding our legal community in biological prejudice, the proper approach is to recognize rights as legal protections stemming from both positive law (such as legislative grants of rights) and the fundamental values of the common law (such as liberty and equality). Once this Court sweeps away the District Court's unsupportable framework, it should recognize that nonhuman animals are in fact legal persons, because they have legal rights both as a matter of positive law and based on the common law values of liberty and equality. This brief urges the Court to recognize animals as legal persons who are consequently entitled to challenge their illegal confinement as other legal persons can.

III. ARGUMENT

This case asks whether at least some nonhuman animals—including Missy, Kimba, Lucky, LouLou, and Jambo, five elderly African elephants confined at the Cheyenne Mountain Zoo—are legal persons entitled to writs of habeas corpus when they are unlawfully detained. The brief argues that the Court should reverse the District Court's erroneous denial of habeas corpus for these five elephants because

animals are legal persons who are entitled to challenge their wrongful confinement.

A. The District Court's Order Should Be Reversed.

1. The District Court Erred in Relying on Narrow and Incomplete Definitions of "Person" Contrary to the Prevailing Direction of American and Coloradan Law.

The District Court denied the petition for a writ of habeas corpus on the grounds that nonhuman animals are not "legal persons" under Colorado law and thus lack standing to invoke the protections of the great writ. In reaching this sweeping legal conclusion, the District Court relied on dictionary definitions and evidence of absence, namely the supposed lack of any American case law recognizing animal personhood. But the court overstated the evidence against personhood and ignored contrary case law.

First, the District Court claimed that Colorado's definition of "person" limits the term to human beings and legal entities created by human beings. But this analysis has it exactly backwards. C.R.S. § 2-4-401(8) defines "person" as "any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity." This definition does not exclude nonhuman animals; it simply clarifies that "person" is not limited *only* to "individuals." But more importantly, the term "individual" is *more capacious* than "person." Indeed, Colorado law recognizes that animals *are* individuals in the full sense of the word. *See People v. Harris*, 2016

COA 159, ¶ 47 ("[T]he legislature perceived animal cruelty not as an offense against property but as an offense against the *individual animal*.") (emphasis added). This recognizes animals as rights-holders in Colorado and draws a significant legal line between animals and "mere property." While destruction of property is an offense against the property owner, cruelty against an animal is an offense *against that animal*.

Likewise, the District Court's reliance on dictionary definitions is misplaced. To begin with, the dictionary definitions given by the District Court are question-begging. For example, the court cites *Webster's Third New International Dictionary* (2002), which defines "person," among other things, as a "legal entity that is recognized by law as the subject of rights and duties." But whether some animals are recognized by law as the subject of rights and duties is precisely what is at issue in this case. Moreover, "[d]ictionaries tend to lag behind linguistic realities." Bryan A. Garner & Antonin Scalia, *Reading Law: The Interpretation of Legal Texts* 419 (2012); *see also* Matthew Liebman, *Animal Plaintiffs*, 108 Minn. L. Rev. 1707, 1760 (2024) (noting that "dictionaries [are] much less definitive on politically fraught questions, including who ought to count as a subject of law"). Law and social norms are rapidly evolving with respect to the status of animals. The fact that this development is not adequately captured by a dictionary definition from 2002 is hardly dispositive. As Learned Hand famously put it, "it is one of the surest indexes

of a mature and developed jurisprudence not to make a fortress out of the dictionary." *Cabell v. Markham*, 148 F.2d 737, 739 (2d Cir. 1945).

Finally, the District Court improperly relied on inapposite case law to find that no American court has recognized animal personhood. First, in surveying the relevant case law, the District Court incorrectly collapsed standing more generally with *statutory* standing. Citing *Cetacean Community v. Bush*, the court claimed that "standing is a matter of statutory authorization," yet the Colorado legislature has not granted animals standing to sue under the habeas corpus statute. *Nonhuman Rts. Project, Inc. v. Cheyenne Mountain Zoological Soc'y*, No. 23CV312236 at 14 (Dist. Ct. El Paso Cnty. 2023) (unpublished order) (hereinafter "Dist. Ct. Order"). But statutory standing is different from standing as such. Statutory standing is necessary to sue pursuant to statute, but it is *not* necessary to sue pursuant to a common law right like habeas corpus. The *Cetacean Community* court itself drew this distinction, finding that the plaintiff animals lacked statutory standing under the federal laws at issue but did have Article III standing. *Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1176-79 (9th Cir. 2004). The court saw "no reason why Article III prevents Congress from authorizing a suit in the name of an animal, any more than it prevents suits brought in the name of artificial persons such as corporations, partnerships or trusts, and even ships, or of juridically incompetent persons such as infants, juveniles, and mental incompetents." *Id.* at 1176; see also *Naruto v. Slater*, 888 F.3d 418 (9th Cir.

2018) (reiterating the holding of *Cetacean Community*, but disagreeing with its reasoning). Put simply, the animals in *Cetacean Community* could not sue because they lacked statutory authorization, even though they did have standing as such. Here, the elephants do not need statutory authorization because they are exercising a common law right, namely bringing a petition for a writ of habeas corpus. And as Colorado courts have repeatedly held, the scope of habeas corpus is expansive. *See, e.g.*, *Jones v. Williams*, 2019 CO 61, ¶ 18 ("We have referred to this right [of habeas corpus] in the most sweeping terms, calling habeas corpus 'the great writ of freedom in Anglo-American jurisprudence' and have admonished that 'it is not to be hedged or in anywise circumscribed with technical requirements.'") (internal citations omitted); *People ex rel. Wyse v. Dist. Ct. In & For Twentieth Jud. Dist*., 180 Colo. 88, 92–93 (1972) (holding that Colorado's habeas corpus statute "affords all remedies which are available through a writ of habeas corpus"). In other words, habeas is a special area of law designed to protect the freedom of the most vulnerable, and the District Court's reliance on narrow statutory standing jurisprudence is misplaced.

Second, the District Court's survey of case law on animal personhood fails to acknowledge case law recognizing the special status of animals in Colorado and across the country. For example, as discussed above, in *People v. Harris*, the Colorado Court of Appeals held that Colorado law protects animals as "sentient

being[s],” *not* mere property, so “animal cruelty [is] not . . . an offense against property but . . . an offense against the individual animal.” 2016 COA at ¶¶ 42, 47. This recognition tracks the broader recognition of animals’ special legal status. *See infra* Section III.B.1. For example, jurisdictions across the country have held that imminent bodily harm creates an emergency exception to the Fourth Amendment and that exception extends to humans *and animals* given their comparable interests in avoiding suffering. *See, e.g.*, *State v. Stone*, 92 P.3d 1178, 1184 (Mont. 2004); *People v. Chung*, 185 Cal. App. 4th 247, 730–31 (2010), *as modified on denial of reh’g* (July 1, 2010); *State v. Archer*, 259 So. 3d 999, 1004 (Fla. Dist. Ct. App. 2018); *State v. Fessenden*, 333 P.3d 278, 286 (Or. 2014). In perhaps the most illustrative example, the Massachusetts Supreme Court adapted its prior case law to accommodate animals by directly replacing “someone” (which had referred to a human being in an earlier case) with “an animal”: “[T]he exception permits the police in certain circumstances ‘to enter a home without a warrant when they have an objectively reasonable basis to believe that there may be [an animal] inside who is injured or in imminent danger of physical harm.’” *Com. v. Duncan*, 7 N.E.3d 469, 474–75 (Mass. 2014). Put simply, the District Court’s citations do not capture the complexity of the case law on animals’ legal status. Increasingly, jurisdictions, including Colorado, are recognizing that animals have a heightened legal status. Though courts have shied away from the label “person” as a shorthand for this status,

the substance is the same, as courts have recognized that animals have legally-protected interests in safety and autonomy.

In short, the legal status of animals is a complicated and developing area of law. It would be a mistake to survey the limited existing case law and act as if an imperturbable legal consensus against animal personhood has been reached. Such a conclusion would be premature and eschew the virtues of the common law, prizing certainty over logic and experience. The better approach to this growing body of law is to let principle be the guide. *See infra* Section III.A.3 (articulating a principled approach to personhood). Indeed, premature and expansive rulings that reflect the mores of an era—rather than following bedrock moral commitments to their logical conclusion—have all too often produced "anticanonical" cases. *See* Ilya Somin, *The Case for Expanding the Anticanon of Constitutional Law*, 2023 Wis. L. Rev. 575, 581 (2023).

2. The Social Contract Theory Upon Which the District Court's Decision Is Based Is Exclusionary and Incomplete.

Ultimately, the District Court grounded its decision in an undertheorized social contractarianism. As the court put it: "For better or worse, the social compact . . . is a compact among humans. Our legal system is a human-made system that affords rights and responsibilities to humans and to no other species. While this conclusion may be labeled 'speciesist,' . . . it is reality." Dist. Ct. Order at 19. This

use of social contract theory to exclude individuals from the moral, political, and legal community is deeply troubling. Arguments of this sort—that rationalize exclusion as "reality" without any attempt at principled justification—have excused the very worst forms of prejudice. Reflecting on these familiar examples, the legal scholar Anita L. Allen has warned that "judges' reliance on social contractarianism has served the interests of injustice—even extremes of injustice." Anita L. Allen, *Social Contract Theory in American Case Law*, 51 Fla. L. Rev. 1, 13 (1999).

As the late philosopher Charles W. Mills observes, the development of the social contract theory through the writings of Hobbes, Locke, Rousseau, and Kant, from the mid-17th century through the early 19th century, coincides almost exactly with the era of European expansionism, colonialism, and imperialism and often served as a rationalization for such projects. Charles W. Mills, *Blackness Visible: Essays on Philosophy and Race* (1998); *see also* Charles W. Mills, *The Racial Contract* (1997). While the social contract theory purported to describe a basis for political equality, it drew sharp distinctions between those who were considered participants in the formation of such a contract, viewing property-owning, white men as the archetypal social contractors. As Mills writes, "[t]he racialization of the contractarian apparatus thus manifests itself in . . . the instantiation of a governmental and legal system that either is necessarily white, for they are the only ones who can be political men [], or is at least the superior one that others need to

emulate." Mills, *Blackness Visible*, *supra*, at 129.

Similarly, feminist political theorists and disability scholars have critiqued the social contract theory as premised on exclusionary presumptions about who is best situated to make the rules that govern society. Social contract theory's ahistorical myth of autonomous agents entering into arms-length contractual relationships ignores the reality of connectedness, dependency, and vulnerability that characterizes our existence (and that of animals). Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 Yale J.L. & Feminism 1 (2008); Ani Satz, *Animals as Vulnerable Subjects: Beyond Interest-Convergence, Hierarchy, and Property*, 16 Animal L. 1 (2009) (applying Fineman's vulnerability approach to animals). Disability scholar Sunaura Taylor argues that "the physical vulnerability of disabled individuals and animals is immensely problematic under a social contract tradition of justice, because even in a 'state of nature' an asymmetry in power exists between these groups and able-bodied human beings." Sunaura Taylor, *Beasts of Burden: Disability Studies and Animal Rights*, 19 Qui Parle 191, 199 (2011). Social contract theory also overlooks the unequal bargaining powers between men and women and the fact that the presumed autonomy of the archetypal male social contractors was made possible only because of the domestic labor of women and their historical relegation to the private sphere. *See generally* Carole Pateman, *The Sexual Contract* (1988).

Although social contract proponents have sought to expand the theory to be more inclusive, it retains problematic philosophical assumptions and has been used in ways that marginalize those beings—human and nonhuman—who fail to meet its ideal of a rational, detached, autonomous contractor who deals with others only on his own negotiated terms. *See, e.g.*, Kristin Andrews et al., *Chimpanzee Rights: The Philosophers' Brief* 63 (2019) ("[The personhood-by-proxy] view has been widely criticized by disability advocates and theorists, among others, for setting up a hierarchy of so-called real, normal, or 'charter' persons, whose personhood is tied to their individual capacities and those who are given the protections of personhood 'by courtesy or by proxy.'").

Of course, judges are not called upon to resolve complicated philosophical debates, but to decide discrete legal cases. Nevertheless, judges must wade into philosophical waters in cases that unavoidably raise such questions, as this one does. The Court should be wary of relying on social contract theory to justify the exclusion of animals from the community of legal rights-holders, as the District Court did. As Professor Allen cautions, "[p]ast errors of inadequate rationalization and injustice are easily repeated, so long as the myths and metaphors of social contract theory retain force." Allen, *supra*, at 13. It would be a mistake for this Court to reiterate the District Court's reliance on social contract theory to exclude nonhumans from the community of legal rights-holders.

3. Rights Are Legal Protections Stemming from Legislative Enactments and Common Law Values.

Rather than linking membership in the legal community with one's ability to participate in the social contract, *Amici* suggest an alternative account: rights are legal protections that stem from the positive enactment of legislation or from the extension of common law values to new cases in order to meet changing social norms. Where society, either through the democratic process of positive law *or* the judicial process of the common law, extends legal protections to others, it has conferred a legal right and thus recognized the legal personhood of those it protects.[1]

This perspective is consistent with the jurisprudential consensus that "a person is any being whom the law regards as capable of rights or duties . . . whether a human being or not[.]" Sir John William Salmond, *Salmond on Jurisprudence* § 61 (P.J. Fitzgerald ed. 12th ed 1966). *See also* Bryant Smith, *Legal Personality*, 37 Yale L.J. 283, 283 (1928) ("To confer legal rights or to impose legal duties . . . is to confer legal personality."). It also more accurately describes the legal reality of Coloradan

[1] That legal personhood may stem from the enactment of legislation does not mean that the issues raised in this case are "appropriately directed to the legislature," as the District Court claimed below. Dist. Ct. Order at 9. While it is true that animals' personhood stems in part from their status as the holders of legislatively-granted rights (such as the state anticruelty law or the federal Endangered Species Act, both of which grant rights to the elephants in this case), the contours and consequences of that personhood can be augmented and elaborated by common law judges.

and American law generally, which recognize the existence of legal rights even in the absence of the ability to hold legal duties or participate in the social contract. In our legal system, children, people with cognitive disabilities, and nonhumans have legal rights because (1) legislatures have passed statutes to protect them and (2) they hold the kinds of interests that the common law protects, including interests in liberty and equality.

B. Animals Are Legal Persons and Should Be Entitled to Challenge Their Unlawful Confinement.

The previous section described the flawed logic of the District Court's decision and describes an alternative basis for membership in the legal community. This section applies that alternative basis to the case of nonhuman animals, arguing that animals are *already* legal persons, *descriptively-speaking*, based on the legislative conferral of numerous protections (such as anticruelty laws and trust laws). In the alternative, animals *should* be considered legal persons, *normatively-speaking*, based on their possession of those interests that the common law protects.

1. Animals Are Already Legal Persons Because They Have Legal Rights.

Personhood is the label the legal system attaches to those entities who have legal rights (or duties). Animals fit that description. As the Ninth Circuit noted in *Cetacean Community v. Bush*, "[a]nimals have many legal rights, protected under both federal and state laws." *Cetacean Community*, 386 F.3d at 1175. Constitutional

scholar Cass Sunstein echoes that observation, stating "it is entirely clear that animals have legal rights, at least of a certain kind." Cass R. Sunstein, *Standing for Animals (with Notes on Animal Rights)*, 47 UCLA L. Rev. 1333, 1335 (2000). In Colorado in particular, animals have a negative right to be free from the infliction of unjustifiable pain and suffering and a positive right to the provision of adequate food, water, and shelter. C.R.S. §§ 18-9-201; 18-9-202.

There have been significant shifts in how the legal system conceptualizes animals and their legal rights. These transformations have been most obvious in the development of anticruelty laws across the country. Early iterations of anticruelty laws were primarily concerned not with the animals themselves but with the property rights of animals' human owners or, slightly more altruistically, with the need to safeguard public morals from the coarsening effects of public displays of animal cruelty. Claire Priest, *Enforcing Sympathy: Animal Cruelty Doctrine After the Civil War*, 44 Law & Soc. Inquiry 136 (2019); David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800's*, 1993 Det. C.L. Rev. 1 (1993).

As legislatures amended anticruelty laws, typically in response to advocacy from the animal protection movement, the statutes became more concerned with animal suffering and cruelty as moral wrongs in and of themselves. For example, in the late 19th century and early 20th century, many states began to eliminate the requirement that animals be the property of another to receive the protections of the

statutes. *See, e.g.*, *Waters v. People*, 23 Colo. 33, 35 (1896) (noting the rise in animal protection laws "incident to the progress of civilization"). By applying anticruelty laws to cruelty committed against one's own animals, state legislatures recognized the wrong of animal cruelty not as a property crime against the owner of the animal, but rather an invasion of the legally recognized interests of the animal herself.

In *People v. Harris*, the Colorado Court of Appeals noted the significance of this development, recognizing animals themselves as the beneficiaries of Colorado's anticruelty statute. 2016 COA 159, ¶¶ 42-47. The *Harris* court considered whether each animal who was injured was a discrete instance of animal cruelty. *Id.* at ¶ 42. The court reasoned that if animals are mere property, then injuring multiple animals is only a single offense, "much like the defendant who commits a single offense by destroying various items of personal property of another." *Id.* But the court recognized that animals are *not* mere property but rather "sentient being[s]." *Id.* As the court held, "animal cruelty [is] not . . . an offense against property but . . . an offense against the individual animal." *Id.* at ¶ 47. To support its conclusion, the court traced the historical development of anticruelty laws from early laws "designed to protect the property interests of owners" to later legislation "that reflected society's acceptance of the idea that animals had an *inherent right* to be free from unnecessary pain and suffering and that the legal system should recognize that right." *Id.* at ¶¶ 48-49 (emphasis added). The court highlighted an 1889 statute as the

genesis of this landmark transformation of animal law in Colorado. *Id.* at ¶ 50. For more than a century, then, Colorado law has recognized that animals have an "inherent" and legally-protected right "to be free from unnecessary pain and suffering."

In fact, Colorado has extended these legal protections for animals beyond the basic provision of food, water, and shelter. For example, recently, Colorado expanded protections for elephants in particular as part of the Traveling Animal Protection Act. § 33-1-126(3)(h). Recognizing elephants' interest in autonomy and an appropriate, species-specific habitat, the newly enacted statute bans the use of elephants for entertainment in circuses and traveling shows. *Id.*

This legislative tradition of protecting individual animals themselves from suffering constitutes the conferral of legal rights and thus personhood, as a "person" is simply an entity who holds legal rights. Given animals' legal personhood, they ought to enjoy not only those rights that have been legislatively conferred, as in the anticruelty law, but also those that may be judicially elaborated through the common law, as in the writ of habeas corpus. *See, e.g.*, Liebman, *supra*, at 1714 ("The term 'person' simply denotes an entity, human or otherwise, that is the subject of rights or duties. As long as animals have legal rights (either descriptively under positive law or normatively under natural law), they are legal persons, and courts ought to recognize them as such.").

This expansion of rights is happening on other fronts as well, such as in the extension of the right to own property to animals. Dozens of state legislatures, including Colorado, have enacted laws allowing nonhuman animals to inherit and own property in recent years. Karen Bradshaw, *Wildlife as Property Owners: A New Conception of Animal Rights* (2020); C.R.S. § 15-11-901.

Another indicator of animals' changing legal status is the fact that the Ninth Circuit recognizes that nonhuman animals have Article III standing, as elaborated above. *See supra* Section III.A.1. Though the Ninth Circuit has not yet found a statute under which animals can sue in federal court, it nevertheless recognized that animals have the capacity to hold rights and to be litigants under the right circumstances. *Cetacean Community*, 386 F.3d at 1176

Moreover, under many Indigenous legal orders, animals have always been legal persons in the United States. From precolonial times to the present, many Indigenous legal systems and cultural practices view animal interests as co-equal with human interests. Sarah Deer & Liz Murphy, *"Animals May Take Pity on Us": Using Traditional Tribal Beliefs to Address Animal Abuse and Family Violence Within Tribal Nations*, 43 Mitchell Hamline L. Rev. 703, 712 (2017) ("In a vast number of tribal cultures, animals were not viewed or treated as inferior to the human species; rather, animals were seen as 'people,' too. For example, bison were

often conceived of as people by different Plains tribes, and salmon were considered people to Northwest Coast Indians.”).

To state the obvious, North American Indigenous law preexisted the imposition of English common law in North America and has continued uninterrupted since then. Although the laws and cultural practices were variable among the many distinct Indigenous governments, legal traditions contained in traditional ecological knowledge and oral histories reflect a worldview that incorporates intergenerational and interspecies interests in a way that traditional English common law did not.

Contemporary Indigenous law also supports legal personhood for non-human entities as part of a broader trend of animal rights. Indigenous governments have joined state and federal governments in rapid legal innovation with respect to animals in the past decade. For example, The Navajo Nation Code and Ho-Chunk Constitution recognize existence rights of nonhuman animals; The Yurok Tribe has granted legal personhood to the Klamath River and the White Earth Band of Ojibwe recognize the existence right of wild rice. Bradshaw, *supra*. Indigenous groups are leading innovation and expansion of the legal status of animals, contributing an important strand to the multifaceted rights expansion occurring nationally and internationally.

Taken together, these trends establish that animals can no longer be seen as rights-less things, but rather as the holders of legal rights, and consequently legal persons. As entities who "have many legal rights[] protected under both federal and state laws," *Cetacean Community*, 386 F.3d at 1175, animals are already legal persons, because "[t]o confer legal rights or to impose legal duties . . . is to confer legal personality." Smith, *supra*, at 283.

2. In the Alternative, Animals Should Be Considered Legal Persons, Because They Hold the Kinds of Interests that the Common Law Protects.

Should this Court disagree with the *descriptive* claim that animals are already legal persons by virtue of their possession of legal rights, *Amici* agree with the *normative* claim made by the Nonhuman Rights Project that animals should be recognized as member of the legal community because of their possession of those interests that the common law protects, namely interests in autonomy and liberty. To avoid redundancy, *Amici* will not repeat those arguments here. Simply put, *Amici* emphasize their agreement with the contention that animals have a substantive interest in autonomy and liberty and are entitled to equal treatment under the law when like cases arise. As the District Court acknowledged, "[e]lephants are extraordinary creatures, possessed of truly exceptional cognitive, social, and psychological capabilities." Dist. Ct. Order at 25. Because elephants have the very interests that the common law protects, they are normatively entitled to consideration

as legal persons. As legal persons, Missy, Kimba, Lucky, LouLou, and Jambo are entitled to a writ of habeas corpus to require the Cheyenne Mountain Zoo to justify their detention.

IV. CONCLUSION

Because the District Court's decision relied on an inaccurate and overly restrictive criterion for inclusion within the moral, political, and legal community, it should be reversed and replaced with a more inclusive approach, one that recognizes the legal personhood of nonhuman animals. Legal belonging extends not only to the archetypal humans of social contract theory, but also to those entities—human and nonhuman—who have secured the protection of their liberties through the enactment of legal protections or who are entitled to such protections by virtue of who they are. *Amici* respectfully request that the Court reverse the District Court's Order and remand with instructions to grant a writ of habeas corpus for Missy, Kimba, Lucky, LouLou, and Jambo.

Respectfully submitted this 22nd day of May, 2024.

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I hereby certify that on May 22, 2024, a true and correct copy of the foregoing **BRIEF FOR *AMICI CURIAE* LAW PROFESSORS IN SUPPORT OF PETITIONERS-APPELLANTS NONHUMAN RIGHTS PROJECT, INC.** was electronically filed and served via Colorado Courts E-Filing on the following counsel of record:

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