# Case Summary: The Nonhuman Rights Project, Inc.

**Barbara Bolton**[1]

**In a widely reported preliminary decision issued on 20 April 2015, in the case of** *The People of the State of New York ex rel. The Nonhuman Rights Project, Inc., on behalf of Hercules and Leo v. State University of New York a/k/a Stony Brook University,* Justice Jaffe of the Supreme Court of the State of New York granted "an order to show case and writ of habeas corpus," in relation to chimpanzees, Hercules and Leo.

The order required Stony Brook University to demonstrate a legal basis for the detention of Hercules and Leo, who they have held at their laboratory since 2010, and to explain to the court why it should not order their release. Hercules and Leo were three years old when they arrived at Stoney Brook, and eight by the time of the hearing. They spend most of their time in solitary confinement, and the remainder of the time being used as research subjects.

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The preliminary decision understandably attracted a great deal of international publicity, as this was the first decision of its kind, the first time the captors of non-human animals have been required to justify the detention of living beings, classed as property under the law. The decision raised the hopes of animal rights advocates across the world.

However, on 29 July 2015 Justice Barbara Jaffe gave her decision denying the petition and dismissing the case. She decided that she was bound by prior decisions of the New York Supreme Court, Appellate Division, which held that chimpanzees do not qualify for habeas corpus relief, as only legal persons qualify and it would be inappropriate to accord chimpanzees the status of legal personhood given that they are not capable of bearing legal responsibilities. This is the social contract theory and a familiar argument advanced against animal rights. Justice Jaffe's decision is being appealed, as are the decisions of the New York Court of Appeals.

Justice Jaffe essentially found that she was bound to dismiss the Nonhuman Rights Project's ("NhRP") applications on behalf of chimpanzees unless and until their legal personhood is recognised through legislation or by a higher court. In her discussion of the issues, however, she also made some very enlightened comments, which offer hope to those advocating for the rights of animals.

*"The similarities between chimpanzees and humans inspire the empathy felt for a beloved pet. Efforts to extend legal rights to chimpanzees are therefore understandable; some day they may even succeed. Courts, however, are slow to embrace change, and occasionally seem reluctant to engage in broader, more inclusive interpretations of the law, if only to the modest extent of affording them greater consideration. As Justice Kennedy aptly observed in Lawrence v Texas, albeit in a different context, "times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress…The pace may now be accelerating."*

In citing the Supreme Court's 2003 decision in Lawrence v Texas, which found a Texas state law criminalising

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gay sex to be unconstitutional, Justice Jaffe recognised that the struggle for the rights of animals is properly viewed within the realm of the other equality and justice movements of our time, sitting alongside the struggle against discrimination based on race, sex and sexual orientation. Justice Jaffe recognised that to refuse non-human animals rights because they have not previously been accorded rights is circular and:

*"If rights were defined by who exercised them in the past then received practices could serve as their own continued justification and new groups could not invoke rights once denied."*

While the decision at the State Supreme Court level was not a resounding victory, the very fact that a court in New York heard a reasoned legal debate on the question whether non-human animals should be treated as legal persons is a highly significant achievement in itself. That the petition was not met with instinctive ridicule, that instead Justice Jaffe heard full arguments and gave a full, considered opinion, is considerable progress.

The struggle against speciesism has made it into the court room. This equality movement has not yet had its *Somerset v Stewart*[2] or its *Brown v Board of Education*[3], but it is hopefully only a matter of time.

**Background**

In March 2015 NhPR filed their petition for a common law writ of habeas corpus granting bodily liberty to Hercules and Leo with the New York State Supreme Court in New York. They referred to Article 70 of the New York Civil Practice Law and Rules ("CPLR") in relation to the procedural aspects of habeas corpus, which provides that:

*"A person illegally imprisoned or otherwise restrained in his liberty within the state, or one acting on his behalf……. may petition without notice for a writ of habeas corpus to inquire into the cause of such detention and for deliverance.*

*A judge authorized to issue writs of habeas corpus having evidence, in a judicial proceeding before him, that any person is so detained shall, on his own initiative, issue a writ of habeas corpus for the relief of that person."*

NhRP argued that Hercules and Leo are "persons" qualifying for a common law writ of habeas corpus, and they sought an order (a) requiring Stony Brook to justify their detention of Hercules and Leo and (b) requiring their immediate release.

Anticipating that, as in previous cases, the court may well reject the application without much consideration, NhRP pointed out that the court did not need to determine that Hercules and Leo were "persons" in order to issue the order to show cause and writ of habeas corpus. The court could issue the order, requiring Stony Brook to show case, and then consider the arguments in full before making a determination.

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On 20 April 2015 Justice Jaffe issued an "Order to Show Cause & Writ of Habeas Corpus" ordering Stony Brook to show cause why the order sought by NhRP should not be granted. This was an historic decision in and of itself, as no judge had ever issued "an order to show case and writ of habeas corpus" in relation to a non-human animal.

Announcements were quickly made and the international animal rights community was understandably excited by the news. However, the detail of the order was lost in translation and it was widely misreported that Justice Jaffe had determined that two chimpanzees were legal persons. Perhaps in response, Justice Jaffe quickly amended her order, striking the words "writ of habeas corpus," and leaving only "an order to show cause". Justice Jaffe later confirmed in her decision that in doing so she had been mindful of NhRP's assertion that she need not make a determination about personhood to grant the preliminary order. Issuing the order had indicated only that she wished to have an opportunity to hear both sides in full before determining such important questions. Oral argument was heard on 27 May 2015.

**Habeas Corpus**

The writ of habeas corpus is a discretionary writ issued by a court directed to the person holding the detained individual, requiring them to produce the person to the court and demonstrate a lawful basis for

[2] English Kings Bench decision of 1772 granting freedom to a Virginian slave.

[3] US Supreme Court decision ending racial segregation in public schools.

detaining them. In this case NhRP did not request that Hercules and Leo be brought into the court room. It is easy to imagine the media furore that would have ensued had they done so, and how that would have distracted from the legal arguments (not to mention the stress for Hercules and Leo).

Literally "habeas corpus" means "you may have the body." It has its roots in English common law, where it developed into a right to have a judge assess the lawfulness of detention. The 1215 Magna Carta stated that no one could be imprisoned unlawfully and in 1679 the right was included in an English Act of Parliament, which is still in force today in England and Wales.[3]

In the case of *Somerset v Stewart* (1772) Lofft 1, the Court of the King's Bench (England) granted habeas corpus relief to a slave from Virginia who had been brought to the UK by his owner, where he escaped and was then recaptured. In granting his release the court found that his right to liberty outweighed any proprietorial interest of the slave-owner.

Over 200 years later, NhRP argued that it was time to extend this to cover Hercules and Leo.

**The main arguments**
**NhRP on behalf of Hercules and Leo**
NhRP argued that Hercules and Leo are not legally detained. They did not challenge the conditions in which Hercules and Leo are kept, complain about their welfare, nor assert that Stony Brook is violating any federal, state or local law. They were not making a welfare argument, but an argument based on fundamental rights. The following is a summary of the main points.

The very purpose of a writ of habeas corpus is to protect autonomy and self-determination. The extensive affidavit evidence lodged, from psychologists, zoologists, anthropologists and primatologists, demonstrates that Hercules and Leo are autonomous and self-determining beings. Each expert attested "to the complex cognitive abilities of chimpanzees," highlighting that "humans and chimpanzees share almost 99 percent of their DNA, chimpanzees are more closely related to human beings than they are to gorillas," and emphasising their brain structure, communication skills, self-awareness, empathy and social life.

The scientific information obtained over the past fifty years, and especially the past twenty demonstrates that Hercules and Leo are *"autonomous self-determining beings who possess those complex cognitive abilities sufficient for common law personhood and the common law right to bodily liberty."*

*"These include, but are not limited to, their autonomy, self-determination, self-consciousness, awareness of the past, anticipation of the future, ability to make choices and plan, empathy, ability to engage in mental time travel, and capacity to suffer the pain of imprisonment."*

As they are autonomous and self-determining they are legal persons entitled to fundamental rights and their detention is an unlawful deprivation of their fundamental common law right to bodily liberty and bodily integrity.

It is also discriminatory:
*"Autonomy is a supreme common law value that trumps even the State's interest in life itself; and is therefore protected as a fundamental right that may be vindicated through a common law writ of habeas corpus. New York common law equality forbids discrimination founded upon unreasonable means or unjust ends, and protects Hercules and Leo's common law right to bodily liberty free from unjust discrimination. Hercules and Leo's common law classification as "legal things" rather than legal persons, rests upon the illegitimate end of enslaving them. Simultaneously it classifies Hercules and Leo by the single trait of their being a chimpanzee, and then denies them the capacity to have a legal right. This discrimination is so fundamentally inequitable it violates basic common law equity."*

Essentially, the law is speciesist.

Encouraging the court to assist in the development of the law, NhRP argued that:

*"The Court of Appeals has long rejected the claim that "change ….should come from the Legislature, not the courts."*

*"New York courts have "not only the right, but the duty to re-examine a question where justice demands it" to "bring the law into accordance with*

**chimpanzees are more closely related to human beings than they are to gorillas**

[3] This statute has no application in Scotland, where other legislative provisions apply.

**slaves were not considered persons and women were not persons for many purposes until the twentieth century**

*present day standards of wisdom and justice rather than “with some outworn and antiquated rule of the past.”*

Personhood is a developing legal concept. At one time slaves were not considered persons and women were not persons for many purposes until the twentieth century. What is a person is a matter of public policy and the determining factor in attributing personhood is “whether justice demands that they count in law.” Whether or not they were able to bear duties and responsibilities is not determinative.

NhRP argued against the social contract approach, which says that to be a “person” you must be able to bear responsibilities. Pointing out that the cases the Appellate Division had relied on for this proposition were inapposite, they noted that the writ of habeas corpus has always been applied to persons who are not part of the “social contract”, such as aliens and in the Guantanamo cases. They argued that only “claim rights” have a correlative duty, and what they sought was not a claim right but an “immunity right” (also known as a “liberty right”), which correlates not with a duty but with a disability:

*“One need not be able to bear duties or responsibilities to possess these fundamental rights to bodily liberty, freedom from enslavement, and free speech.”*

For example, *Roe v Wade* established that women have an immunity-right to privacy and against interference by the state with a decision to have an abortion within a certain period of time, whereas this did not give women a claim right to require the state to aid them in securing an abortion. Hercules and Leo’s ability to bear duties or responsibilities was therefore entirely irrelevant to whether or not they had the right to liberty.

They were careful to make it clear to the court that they were putting forward a very narrow argument in terms of the rights that Hercules and Leo would have as legal persons. It is not the case, they said, that if you’re a person for one part of the law you’re a person for all parts. They were seeking recognition of personhood only in relation to the common law writ of habeas corpus and the right to bodily integrity.

NrHP sought the immediate release of Hercules and Leo to Save the Chimps, a premier chimpanzee sanctuary in South Florida, and cited authority in support of release to a facility being a competent remedy in a writ of habeas corpus, for example where a five year old child was released into custody.

Anticipating the slippery slope argument, NrHP argued that the scientific evidence presented only applies to cognitively complex, autonomous animals, specifically great apes, elephants, and certain species of whales and dolphins. Granting relief would not lead inevitably to the release of all animals.

Anticipating the State’s reliance on previous decisions of the New York Supreme Court, Appellate Division, NhRP argued that the Appellate Division had erred in relying on the absence of any prior authority for animal rights as a basis for finding that animals had no rights, as the dearth of precedent was only reflective of the fact that this was the first time anyone had sought habeas corpus relief for nonhuman animals.

NhRP also distinguished the cases of *Cetacean Community v Bush* (1004) (where the federal court in the 9th circuit had held that cetaceans are not “persons” entitled to sue in terms of the Federal Endangered Species Act), *Tilikum ex rel. People for the Ethical Treatment of Animals, Inc v Sea World Parks & Entertainment* (2012) (where the federal district court found that the prohibition against slavery in the 14th amendment does not apply to non-humans), and *Citizens to End Animal Suffering & Exploitation Inc v New England Aquarium* (1993) (where the federal district court found that a dolphin was not a “person” within the meaning of the Federal Administrative Procedures Act). These were all decisions turning on the interpretation of “person” in terms of a particular statute or Constitutional Amendment and not in relation to habeas corpus relief.

NhRP also argued that the Justice Jaffe was not bound by the decisions of the Appellate Division as they had not been decisions reflective of settled

**the writ of habeas corpus has always been applied to persons who are not part of the “social contract”**

principles of law. They were decisions on novel applications and were subject to appeal, where the appeals had real prospects of success given the Affidavits lodged by habeas corpus experts who are of the opinion that the Appellate Division had fundamentally misunderstood habeas corpus and personhood.

**The Attorney General of the State of New York on behalf of the Respondents**

The State put up a number of procedural arguments, including that NhRP had no standing to bring the petition on behalf of Hercules and Leo, as they had no significant relationship with them. The NhRP response was that the CPLR did not set any specifications as to who could appear on behalf of a restrained person, it said only "one acting on his behalf". They cited a number of slavery related cases where committees and societies advocating for change represented individual slaves in bringing habeas corpus petitions. Justice Jaffe agreed with NhRP finding that they did have legal standing to bring the petition. She also rejected a number of other procedural arguments made by the State.

The following is a summary of the main substantive arguments by the State.

The State's main argument in opposing the Petition was that the question whether chimpanzees should be treated as legal persons had already been decided by a higher court and Justice Jaffe was bound to follow that decision.

The New York Supreme Court, Appellate Division, Third Department had held in the NhRP case on behalf of the chimpanzee Tommy (the *Lavery* case), that "a chimpanzee is not a 'person' entitled to the rights and protections afforded by the writ of habeas corpus." The State argued that Justice Jaffe was required to follow that binding authority.

They argued that even if the *Lavery* decision was not binding on Justice Jaffe, she ought to apply the reasoning adopted by the Appellate Division as it was "compelling and clearly demonstrates the inappropriateness of extending habeas corpus to nonhuman animals." They referred to the recognition in the *Lavery* decision that:

*"animals have never been considered persons for the purposes of habeas corpus relief, nor have they been explicitly considered as persons or entities capable of asserting rights for the purpose of state or federal law."*

They adopted the Third Department's use of the social contract theory of rights, arguing that duties and rights are correlative, *"a chimpanzee has no duties or obligations under the law, and it cannot be held legally accountable for any of its actions,"* and *"it is this inability to bear any legal responsibilities and societal duties that renders it inappropriate to confer upon chimpanzees the legal rights – such as the fundamental rights to liberty protected by the writ of habeas corpus – that have been afforded to human beings."*

They argued the decision in *Lavery* was consistent with the Supreme Court's refusal to extend the legal rights afforded by the US Constitution to nonhuman animals, as in the case of *Tilikim v Sea World*, where the Supreme Court held that orcas are not entitled to the constitutional protection from slavery.

Acknowledging that "person" is not a synonym for "human being", the State argued that previous court decisions established that:

*"not all humans are persons for the purpose of establishing legal rights, such as a human foetus, but all persons are human beings or associations of human beings," and*

*"If there is to be an expansion of animal rights to include rights now afforded only to human beings that is for the legislature to determine."*

> **a chimpanzee has no duties or obligations under the law, and it cannot be held legally accountable for any of its actions**

They argued against the NhRP assertion that the characteristics of autonomy and self-determination qualify "an entity" (as the State put it) for personhood and so habeas corpus relief, noting that there is no authority for that proposition and no explanation was given by NhRP for why those are the defining characteristics. They cited academics who criticize animal rights theory, such as Richard Cupp:

*"rights provided to legal persons 'all share a common theme in their ultimate focus on humanity and human interests… [and] [a]ssigning rights to animals would represent a dramatic and harmful departure from the established focus of rights and responsibilities on humans'"…*

*"there is simply no precedent anywhere of a non-human animal getting the kind of rights they are*

**progress can involve a combination of public opinion, legislative change, and court test-cases**

*talking about. The exceptions that do exist to legal personhood being assigned to somebody who's not human, in every instance that they have cited, it's something that in some way relates to human interest."*

The State made the slippery slope argument, that any extension of the writ to non-human animals could "set a precedent for the release of other animals held in captivity, whether housed at a zoo, in an educational institution, on a farm, or owned as a domesticated pet." Critically, they argued, NhRP did not define the limits of the personhood they argued for, and this would:

*"in all likelihood open the floodgates to similar requests for relief. The consequences of this are worth considering. Animals in zoos, particularly primates, throughout the State could be released. And there is no reason to think that these new rights would be limited to primates. If a pig, another intelligent animal, for example, is found to be 'autonomous and self-determining' will the tens of millions of pigs on farms throughout the country be subject to habeas corpus relief or other legal rights? Would cattle, farm animals or even pet dogs be subject to such relief? Granting the petition here could jeopardize zoos, aquariums, and even the country's farming and livestock industry."*

Finally, noting that NhRP admitted that habeas relief would not result in Hercules and Leo being released completely the State argued that all they sought was a change of conditions which showed that habeas relief was not appropriate. They pointed out that New York Supreme Court, Appellate Division, Forth Department (in the *Presti* decision, in relation to the chimpanzee Kiko) had held that the attempt to transfer a chimpanzee to a sanctuary was an impermissible use of habeas corpus, which could only be used to seek the release of a person, and not merely a change in the conditions of confinement. They argued that this decision was also binding precedent.

The hearing lasted two hours, at the conclusion of which Justice Jaffe thanked both sides for an "extremely interesting and well argued" proceeding.

**Decision of Justice Jaffe**

Justice Jaffe agreed with the State that she was bound to follow the Third Department's decision that a chimpanzee is not a legal person. She did not, however, clearly state that she agreed with their reasoning. Indeed, much of what Justice Jaffe said indicated a significant degree of support for the NhRP's Petition.

Justice Jaffe found that:

*"As the Third Department noted in ...Lavery, the lack of precedent does not end the inquiry into whether habeas corpus relief may be extended to chimpanzees….," and*

*"Legal personhood is not necessarily synonymous with being human."*

In considering whether or not habeas corpus could apply to chimpanzees Justice Jaffe noted:

*"the concept of legal personhood, that is, who or what may be deemed a person under the law, and for what purposes, has evolved significantly since the inception of the United States. Not very long ago, only Caucasian male, property-owning citizens were entitled to the full panoply of legal rights under the United States Constitution. Tragically, until the passage of the Thirteenth Amendment of the Constitution, African American slaves were bought, sold, and otherwise treated as property, with few, if any, rights. Married women were once considered the property of their husbands, and before marriage were often considered family property, denied the full array of rights accorded to their fathers, brothers, uncles, and male cousins."*

Rejecting the State's argument that fact that rights had not previously been accorded to nonhuman animals as a sufficient basis for rejecting the Petition, she quoted from a US Supreme Court decision on same-sex marriage:

*"If rights were defined by who exercised them in the past then received practices could serve as their own continued justification and new groups could not invoke rights once denied."*

But neither did she accept that the fact that some who were formerly denied rights now had them necessarily supported the claim made for Hercules and Leo; that was a matter that was yet to be decided:

*"The past mistreatment of humans, whether slaves, women, indigenous people or others, as property, does not, however, serve as a legal predicate or appropriate analogy for extending to nonhumans the status of legal personhood. Rather, the parameters of legal personhood have long been and will continue to be discussed and debated by legal theorists, commentators, and courts, and will not be focused on semantics or biology, or even philosophy, but on the proper allocation of rights under*

*the law, asking, in effect, who counts under the law."*

*"State trial courts must follow a higher court's existing precedent 'even though they may disagree….'"*

*"I am bound by Lavery…….Even were I not bound by the Third Department in Lavery, the issue of a chimpanzee's right to invoke the writ of habeas corpus is best decided, if not by the Legislature, then by the Court of Appeals, given its role in setting state policy."*

**Commentary**
It is important to see the NhRP cases as part of a wider movement for animal rights. We know from other rights movements that progress can involve a combination of public opinion, legislative change, and court test-cases. The Fourteenth Amendment to the US Constitution codified the right of all US citizens to equal protection of the law in 1868, but it was not until the Supreme Court's decision in *Brown v Board of Education* in 1954 that state segregation of schools on the basis of race was held to be unconstitutional. Although the NhRP cases have so far been unsuccessful, the order to show cause and the hearing having taken place will have an impact beyond the case of Hercules and Leo itself. It will form part of the wider movement for the recognition of the sentience of animals, the importance of avoiding the infliction of unnecessary suffering on sentient beings (whatever their species), and the development of animal rights.

This raises the question, given that the habeas corpus principles relied upon in these cases have their roots in English law, where are our equivalent test cases in the UK? Where is the UK version of the NhRP? Are there barriers to this kind of activist litigation in the UK? That is perhaps a topic for discussion.

There may be a troubling side to the arguments advanced by NhRP; is their argument one that inherently perpetuates speciesism?

NhRP expressly argues against the slippery slope argument, saying that they are not seeking rights for all animals, only those species possessing the characteristics they argue are determinative of personhood, autonomy, self-determination, and complex cognitive abilities." NhRP's argument is eminently logical. If Hercules and Leo have many of the essential characteristics of human beings then it is discriminatory and a violation of the principle of equality to deny them the writ of habeas corpus. However, it also means that petitions based on habeas corpus can only be made on behalf of a limited number of species (at least unless and until we have more evidence of the self-determination and autonomy characteristics of other species). The only species NhRP referred to in its submissions as potentially having the autonomy and self-determination required for the right to liberty were chimpanzees, orang-utans, guerrillas, elephants, orcas and dolphins. If the NhRP is successful the line delineating those sentient beings accorded rights and those accorded none will move, but there will still be a line.

Is the demonstration of self-determination and autonomy a legitimate basis on which to base personhood? Does justice only demand that those with autonomy and self-determination count? This is not our approach to young children, the severely mentally disabled, those with dementia, the insane, or those who are fully dependent upon others. They are all considered legal persons although they do not have autonomy or self-determination, and although their cognitive abilities may be limited.

What of the other billions of animals used for our pleasure and entertainment? Is it any less odious to inflict pain and suffering on those species of non-human animal because we are not able to demonstrate that they have the capacity to do mathematics or use sign-language? Is it appropriate to draw a line based on intelligence and similarity to humans? Non-human animals communicate in ways humans do not understand; they have skills and abilities that humans do not; that we do not recognise those skills does not affect their value. Applying a human-centric approach to the assessment of intelligence or value is inherently speciesist.

In terms of morality, which underpins much of the law, is it not their capacity to suffer that truly matters? If a living being is capable of feeling pain and of suffering, is it not right that we be called upon to put forward some lawful basis for their detention? Whether the being is a chimpanzee, an orca, a dolphin, an elephant, a cow, a pig or a chicken, what moral difference does it make? Why should one be a legal person and the other pure property?

Of course, NhRP may well be adopting a pragmatic approach,

**"petitions based on habeas corpus can only be made on behalf of a limited number of species"**

understanding that advances can be made incrementally through legal arguments that may be imperfect in terms of addressing the wider problem and that if we can achieve actual legal personhood for some animals that will be monumental, and will necessarily have an effect on the general perception of animals and rights, hopefully leading people to ask themselves the questions above, and perhaps leading to a more general application of rights for animals.

Our knowledge and understanding of the cognitive abilities of other non-human animals, such as pigs, has advanced greatly over recent years, so that we are more likely to soon be able to demonstrate some of the characteristics relied upon by NhRP. For example, neuroscientist Lori Marino of Emory University and the NhRP issued a press release in June this year referring to a research paper in the International Journal of Comparative Psychology and noting:

*"We have shown that pigs share a number of cognitive capacities with other highly intelligent species such as dogs, chimpanzees, elephants, dolphins, and even humans…there is good scientific evidence to suggest that we need to rethink our overall relationship with them."*

The findings include that pigs have excellent long-term memories, are able at mazes and other tests, follow symbolic language, live in complex social communities, learn from one another, cooperate with one another, can manipulate a joy-stick to move an on-screen cursor and exhibit empathy. If this is an indication of the direction the NhRP is headed in then it is very heartening.

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> **it is increasingly recognised that the use of chimpanzees is outdated**

However, it is one thing to take on a very small (although wealthy) industry that uses animals in experiments, where it is increasingly recognised that the use of chimpanzees is outdated, it is quite another to challenge the abuse and killing of animals by the vast majority of the western population (albeit paying others to do the killing). Advancing the rights of non-human species habitually abused and killed for the sake of our taste-buds presents some monumental challenges. I hope NrHP does not shy away from those challenges. Someone must speak for the voiceless and the NrHP has a credible and persuasive voice.

I for one would welcome the world described by the Attorney General in his legal argument (quoted above), where all animals including pigs and cows could be granted habeas corpus relief. The argument the AG made against this is pernicious, but also familiar. That fundamental rights ought to be refused because to grant them would affect the property rights or enjoyment of others would not be (and has not been) tolerated in response to any other equal rights claim, whether on the basis of race, religion, sex, or sexual orientation; the *Somerset v Stewart* decision being directly on point. To apply it here is no less odious.

All animals are Hercules and Leo.

**The People of the State of New York ex rel. The Nonhuman Rights Project, Inc., on behalf of Hercules and Leo v. State University of New York a/k/a Stony Brook University**

**Proceedings under Article 70 of the CPLR for a Writ of Habeas Corpus**

**"The arc of the moral universe is long, but it bends towards justice." (Theodore Parker and Martin Luther King).**