

# Happy to Be Alone<sup>1</sup>

On May 18, 2022, the New York Court of Appeals heard a case on whether Happy the elephant has the right of *habeas corpus*, and therefore, whether she is considered a legal person. This was the first case of its kind in an English-speaking high court and called into question what constitutes a person in the United States.<sup>2</sup>

For the past 45 years, Happy the elephant has been kept at the Bronx Zoo in a one-acre enclosure, with intermittent contact with other elephants.<sup>3</sup> A petition led by the Nonhuman Rights Project (NhRP) garnered almost 1.5 million signatures calling for Happy's release to an elephant sanctuary. The petition, titled "End Happy The Elephant's 10 Years of Solitary Confinement," states that Happy has been in isolation since her companions Grumpy and Sammy died. Zoo defenders assert that Happy is not alone, and that she receives extensive care, including efforts at interaction and enrichment, unlike prisoners in solitary confinement who receive little if any human contact. For instance, Happy resides next to another female elephant, Patty, who is separated by a fence and the two elephants can see and smell each other, and even touch trunks.<sup>4</sup>

A ruling in favor of Happy's personhood would have massive ramifications. The Nonhuman Rights Project filing the case on behalf of Happy argues that the ruling could help animals achieve the bodily liberty that has been denied to them across human history. Attorneys for the Bronx Zoo warned that, "expanding the notion of a 'person' to include animals... has implications not just for zoos, but for pet owners, farmers, academic and hospital-based researchers and, most critically, every human who might seek or need access to the judicial system."

Happy was, in part, selected by the NhRP because in 2005 she was the first elephant to pass the mirror test, previously only passed by great apes and dolphins. The mirror test determines whether an animal possesses the ability of visual self-recognition and is often associated with capacity for empathy. It is unclear whether opening the legal recognition of personhood to Happy the elephant would set the stage for all animals who fall under this category to also have personhood status. There have been many theories on how to quantify the moral value of a being, whether that is self-awareness, capacity for pain, or the capacity for rational thought.

NhRP argues that those who have claims against their case do so for self-interested reasons, such as the National Association for Biomedical Research, which claimed that "extending *habeas* rights to animals would... drive up the cost of conducting critical research using animals, threatening to impede important medical breakthroughs and other major scientific advances that benefit humans and animals alike."<sup>5</sup>

Three Buddhist scholars countered in a brief that "this legal moment for Happy represents a great opportunity to consider the treatment of sentient beings from a cross-cultural and more moral perspective than we have done before, so as to avoid perpetuating a great moral wrong merely because it has been a habit of the law."

## DISCUSSION QUESTIONS

1. Does the 2022 New York Court ruling that Happy cannot claim *habeas corpus* rights (and therefore, is not a *legal* person) mean that she is not a morally considerable person?
2. What are the moral implications of regarding some or all non-human animals as persons?
3. Are there ways to ensure the well-being of animals other than by granting personhood status?

---

<sup>1</sup> A version of this case appears in the APPE Intercollegiate Ethics Bowl's® [2022 Regional Case Set](#). It is reproduced here with permission. For more information about APPE IEB®, visit <https://www.appe-ethics.org/about-ethics-bowl>.

<sup>2</sup> <https://subscriber.politicopro.com/article/eenews/2022/05/12/happy-the-elephants-case-poses-heavy-philosophical-questions-00032060>

<sup>3</sup> <https://www.washingtonpost.com/opinions/2022/06/23/bronx-zoo-elephant-lawsuit-happy-captivity/>

<sup>4</sup> <https://www.theatlantic.com/ideas/archive/2021/11/happy-elephant-bronx-zoo-nhrp-lawsuit/620672/>

<sup>5</sup> <https://www.nonhumanrights.org/content/uploads/Kathleen-Sullivan-brief-Happy-Court-of-Appeals.pdf>

