

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212  
LANSING, MICHIGAN 48909

DANA NESSEL  
ATTORNEY GENERAL

May 30, 2019

Clerk of the Court  
Kent County Courthouse  
180 Ottawa Avenue NW  
Grand Rapids, MI 49503

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Re: *Scruggs v Wood*, No. 18-09855-AP

Dear Clerk of the Court:

Enclosed for filing in the above referenced matter, please find an AMICUS BRIEF OF ATTORNEY GENERAL DANA NESSEL and a Proof of Service. A copy for the Honorable J. Joseph Rossi has also been enclosed.

Thank you for your assistance in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Allen", written over a horizontal line.

Christopher M. Allen (P75329)  
Assistant Solicitor General  
517-335-7628

CMA:hlg  
Enclosure

cc: John Engman  
Roland Lindh  
H. Steven Langschawager

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 17TH JUDICIAL CIRCUIT  
KENT COUNTY

STEPHANIE SCRUGGS, DENISE MARIE  
CECCON, JANICE LUCILLE  
HUNDERMAN, MARIBETH ANN  
VLASMAN, LORI JEAN FAIRBANKS, DEED  
ORVIL DYER,

No. 18-09855-AP

Plaintiffs-Appellants,

HON. J. JOSEPH ROSSI

v

CATHERINE WOOD,  
Prisoner-Appellee,

MICHIGAN PAROLE BOARD,  
Intervenor-Appellee.

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John Engman (P13198)  
Melinda Roesly (P71823)  
Attorney for Plaintiffs-Appellants  
4095 Embassy Drive, Suite D  
Grand Rapids, MI 49546  
616-454-5222

---

Christopher M. Allen (P75329)  
Assistant Solicitor General  
Attorney for Amicus Party  
P.O. Box 30212  
Lansing, MI 48909  
517-335-7628

---

Roland Lindh (P74441)  
Attorney for Appellee-Prisoner  
Catherine Wood  
161 Ottawa NW, Suite 300-H  
Grand Rapids, MI 49503  
616-350-4348

---

H. Steven Langschwager (P52380)  
Assistant Attorney General  
Attorney for Appellee-Intervenor  
Michigan Parole Board  
P.O. Box 30217  
Lansing, MI 48909  
517-373-4875

---

AMICUS BRIEF OF ATTORNEY GENERAL DANA NESSEL

Dana Nessel  
Attorney General

Christopher M. Allen  
Assistant Solicitor General  
Attorneys for Amicus Party Attorney  
General Dana Nessel

Dated: May 30, 2019

## TABLE OF CONTENTS

	<u>Page</u>
Table of Contents .....	i
Index of Authorities.....	ii
Statement of Interest of Amicus Curiae.....	iii
Statement of Jurisdiction.....	iv
Statement of Question Presented .....	v
Introduction.....	1
Statement of Facts and Proceedings .....	2
Standard of Review .....	5
Argument.....	6
I.    The Parole Board abused its discretion in granting parole because it has insufficient information to assure that Wood will not be a menace to society, especially given Wood's history of thrill killings. ....	6
A.    Wood's heinous series of crimes show that she should not be granted the grace of parole.....	7
B.    The Parole Board's evaluation failed to properly weigh the severity of Wood's crimes.....	8
Conclusion and Relief Requested.....	10

## INDEX OF AUTHORITIES

Page

### Cases

<i>Fieger v Cox</i> , 274 Mich App 449 (2007) .....	iii
<i>In re Elias</i> , 294 Mich App 507 (2011) .....	6, 8
<i>In re Parole of Johnson</i> , 219 Mich App 595 (1996) .....	5, 6
<i>People v Babcock</i> , 469 Mich 247 (2003) .....	6
<i>People v Wiley</i> , 324 Mich App 130, app den 503 Mich 929 (2018) .....	iii

### Statutes

MCL 791.233(1)(a) .....	6, 8, 9
MCL 791.233e(6) .....	6
MCL 791.234(7) .....	6

### Rules

MCR 7.118 .....	iv
MCR 7.118(H)(4) .....	10
MCR 7.118(J)(2) .....	10

## STATEMENT OF INTEREST OF AMICUS CURIAE

Attorney General Dana Nessel is the chief law enforcement officer of the State of Michigan, *Fieger v Cox*, 274 Mich App 449, 451 (2007), and may appear “when in [her] own judgment the interests of the state require it.” See *People v Wiley*, 324 Mich App 130, 147, app den 503 Mich 929 (2018). The Attorney General has an interest in protecting the public and therefore has an interest in this case, which involves the parole of an individual who engaged in serial killings of vulnerable adults.

## **STATEMENT OF JURISDICTION**

The instant case is a victim's appeal of the Parole Board's decision to parole Catherine Wood. Amicus agrees that this Court has jurisdiction. MCR 7.118.

## STATEMENT OF QUESTION PRESENTED

1. Did the Parole Board abuse its discretion in granting Catherine Wood parole when it failed to adequately account for the egregious nature of Wood's crimes, i.e., the conspiracy and carrying out of at least five thrill killings of elderly and vulnerable women who were entrusted to Wood's care?

Amicus's answer: Yes.

Victims' answer: Yes.

Prisoner's answer: No.

Parole Board's answer: No.

## INTRODUCTION

Catherine Wood and Gwendolyn Graham worked as nurse's aides at Alpine Nursing Home in the late 1980s. They were supposed to care for elderly, vulnerable adults who could not care for themselves. Instead, Wood and Graham murdered at least five of their patients over the course of three months as part of a scheme of thrill killings. These victims—frail and unable to resist—were singled out and suffocated because they could not defend themselves when a pillow was placed over their faces.

Wood only pled to two counts—second-degree murder and conspiracy to commit murder—but she has admitted to participating in five murders and planning many more. Following her plea, Wood was sentenced to 20 to 40 years' imprisonment and has served nearly 30 years of that sentence. During that time, Wood has shown that she can be a model prisoner; but her conduct before her conviction showed that when left to her own devices as a free person, she is a danger to society.

The Parole Board has previously considered Wood for parole several times, but the severity of her crimes kept her behind bars. This time, however, the Board changed its mind and decided parole is now appropriate for Wood. Regardless of whatever new considerations may have affected the Board this last time, the fact remains that Wood participated in multiple killings of vulnerable victims, admittedly done "because it was fun." The sheer depravity of her crimes shows that the Board cannot be assured, as required by law, that Wood will not become a menace to society or to the public safety. This Court should reverse.



## STATEMENT OF FACTS AND PROCEEDINGS

**Wood and her co-conspirator killed vulnerable, elderly patients entrusted to their care.**

In the winter of 1986 and 1987, in the small city of Walker, Michigan, Catherine Wood and Gwendolyn Graham worked at Alpine Manor Nursing Home. (9/7/89 Plea Tr, pp 2, 9–10.) They worked as nurse's aides charged with caring for several "total care" patients, meaning they needed help, at a minimum, eating and getting dressed. (1/4/89 Prelim Exam Tr, pp 30–31.) Unfortunately, their patients became their victims.

Wood admitted that one of the motivations for the killing spree was "to strengthen the bonds" of her budding love affair with Graham. (Evaluation and Plan, p 1, attached as Exhibit 4 to Wood's Br.) The two would "take turns, so that [they] would have something over each other, and that [they] could never leave each other." (Plea Tr, pp 13, 16.) In picking out their victims, they discussed "whether to spell out the word 'M-U-R-D-E-R' by using patients[] initials." (Prelim Exam Tr, p 102.)

Wood recalled that around the beginning of 1987 she and Graham plotted to kill their first victim: 60-year-old Marguerite Chambers. (Plea Tr, p 13.) Marguerite was "severely debilitated" at the time and "unable to communicate." (Prelim Exam Tr, p 30.) Marguerite was a "total care patient"—she required assistance eating and "had contractures of the muscles to the extent [that] she assumed a fetal position in bed." (Prelim Exam Tr, pp 30–31.)

The first time Wood and Graham attempted to suffocate Marguerite, she only passed out. But later, with Wood's help acting as a lookout, Graham suffocated Marguerite with a washcloth. (Plea Tr, pp 13–14, 16; Evaluation and Plan, p 4.) Wood admitted to “distract[ing] other nursing home staff from the area where the killings were taking place.” (Evaluation and Plan, p 4.)

Marguerite was just the first victim. Wood and Graham also killed Edith Cook. Edith was extremely vulnerable. She suffered from Alzheimer's, only weighed 90 pounds, was bed-ridden, needed assistance to eat, and had developed gangrene on her right foot. (Prelim Exam Tr, pp 39–42.) Edith was 97 when she was suffocated to death. (Prelim Exam Tr, p 39.)

In addition to Marguerite and Edith, Wood and Graham identified at least three other women as being helpless enough for them to kill easily: Myrtle Luce, age 95; Mae Mason, age 79; and Belle Burkhard, age 74. (Evaluation and Plan, p 4.) Wood and Graham conspired to murder each of them, and carried out that plan. Moreover, available information suggests that there may have been even more victims. (Prelim Exam Tr, pp 96–97) (Wood's ex-husband recalled Wood admitting to *six* killings); (Prelim Exam Tr, p 75) (Wood and Graham told a friend they killed *six or seven*); (Evaluation and Plan, p 4) (the police initially investigated *eight* deaths but lacked solid evidence concerning three of them).

**Wood took personal belongings from her victims as souvenirs, planned to kill “maybe 20” victims, and said she did it for “fun.”**

Wood admitted that she and Graham planned “a whole bunch” of murders, “ten, fifteen,” “maybe 20” of them. (Plea Tr, p 20.) Wood explained that they planned to “kill total care patients because they could not struggle vigorously and many of them lacked the ability to communicate.” (Evaluation and Plan, p 4.) The victims’ frailty was part of the design—Wood and Graham “would take turns pinching close[d] the nostrils of prospective victims to see how violently they struggled.” (Evaluation and Plan, p 4.) Wood confided in her ex-husband, “it was easier to get away with it; then they couldn’t fight back” and “there wasn’t a chance of them failing to suffocate them or them reporting [it] later.” (Prelim Exam Tr, p 98.) Wood stated that some attempts to suffocate other potential victims were thwarted when the patients did fight back. (Evaluation and Plan, p 4.)

But murdering innocent victims wasn’t enough for Wood. Several months after the killings, Wood and Graham showed items they stole from their victims to a friend. (Prelim Exam Tr, pp 74–75.) The items were placed like trophies on a shelf in Graham’s apartment—the friend remembered an anklet or a sock and a necklace. (Prelim Exam Tr, pp 74–75.) She recalled Wood retrieving the anklet from the shelf and showing it off to her. (Prelim Exam Tr, pp 75–76.)

When Wood first disclosed the killings to her ex-husband, he tried to mitigate her conduct, suggesting to her that maybe she was under enormous “pressure” and had “a lot of anger.” (Prelim Exam Tr, p 101.) But Wood cut him off. She said, “[N]o, [we] did it *because it was fun*.” (Prelim Exam Tr, p 101) (emphasis added).

## **Wood pled guilty and has served time in prison.**

Initially, foul play was not suspected in the deaths. Given the state of the victims at the time of their murder, autopsies were not initially performed. (Prelim Exam Tr, p 32.) Even after the autopsies, the coroner “did not find any positive evidence for suffocation.” (See, e.g., Prelim Exam Tr, p 35.) So, for a time, the crimes went unsolved. But approximately a year and a half after the series of murders, Wood told a friend that she had walked in on Graham suffocating a woman. (Prelim Exam Tr, pp 20–21, 24.) At that time Wood made no mention of the fact that she was an integral part of the murder. (Prelim Exam Tr, pp 21–22.)

This admission led to an investigation. After the investigation was completed and charges were brought, Wood pled guilty to one count of second-degree murder and one count of conspiracy to commit murder. (See generally Plea Tr.)

Wood was sentenced to prison, and for most of her term of incarceration, was housed in a federal facility, rather than in MDOC, per a condition of the plea agreement. (Evaluation and Plan, p 1.) Wood was previously denied parole eight times, but on the ninth review, the Board granted her parole. This appeal followed.

## **STANDARD OF REVIEW**

Parole decisions are reviewed for an abuse of discretion. *In re Parole of Johnson*, 219 Mich App 595, 597–598 (1996).

## ARGUMENT

**I. The Parole Board abused its discretion in granting parole because it has insufficient information to assure that Wood will not be a menace to society, especially given Wood's history of thrill killings.**

Because it failed to account for the full nature of Wood's crimes, the Parole Board abused its discretion in granting Wood parole. While the Board's discretion is broad, it is still subject to judicial review. *In re Parole of Johnson*, 219 Mich App 595, 596–597 (1996); MCL 791.234(7). The lodestar of the Board's charge is that it must not act in a way that will jeopardize public safety:

A prisoner *must not* be given liberty on parole until the board has reasonable assurance, after consideration of all of the facts and circumstances, including the prisoner's mental and social attitude, that the prisoner will not become a menace to society or to the public safety. [MCL 791.233(1)(a) (emphasis added).]

See also *In re Elias*, 294 Mich App 507, 522 (2011).

Although the Board's decision was premised on the fact that Wood received a score indicating a "high probability of parole," the Board abused its discretion in not finding "substantial and compelling reasons" to deny Wood parole.

MCL 791.233e(6). (Wood Parole Guidelines Scoresheet [Scoresheet], attached to Parole Board's Br.) A "substantial and compelling reason" includes "a reason that keenly or irresistibly grabs our attention . . . and exists only in exceptional cases."

*In re Elias*, 294 Mich App at 542, quoting *People v Babcock*, 469 Mich 247, 258 (2003). This provision is the Legislature's recognition "that in some circumstances the parole guidelines fail to take into account adequate information." *In re Elias*, 294 Mich App at 522.

**A. Wood's heinous series of crimes show that she should not be granted the grace of parole.**

Wood's crimes reveal a level of depravity such that she cannot be trusted in society. Any conclusion by the Board to the contrary reveals a failure to fully account for the pertinent information governing parole decisions.

These murders were premeditated—they were not killings in the heat of passion or under emotional duress—they were planned killings of innocent vulnerable women done for “fun.” And these murders were not done in the heat of some crazed but short-lived furor; they were carried out over the course of several months, with innumerable foregone opportunities to stop. They were not done out of frustration with the challenges of caring for sick people; they were done with the goal of spelling M-U-R-D-E-R with the initials of the victims. These murders were not committed in shame; they were flaunted with souvenirs that were shown to friends.

Wood preyed on those who could not defend themselves. Not only that, she preyed on people she was responsible for taking care of. As a nurse's aide, Wood was one of the people who could have and should have made these women comfortable in their waning years. Instead, she helped inflict terror and death. The vicious nature of the crimes Wood has admitted to carrying out, the helplessness of the victims, the willful targeting of those victims because of that helplessness, the abuse of the caretaker relationship, the pure malice evidenced by taking souvenirs of the victims, and the sheer number of victims should each individually show that this is an exceptional circumstance that warrants exceptional consideration.

Combined, these factors reveal a truly exceptional series of heinous crimes and a perpetrator more depraved than civilized society can bear. Wood's conduct should have ensured that she was not granted parole before she served her maximum sentence because of her ongoing threat to society. MCL 791.233(1)(a).

**B. The Parole Board's evaluation failed to properly weigh the severity of Wood's crimes.**

The Board's scoring of its own variables may be technically accurate. But if any case constitutes one in which "the parole guidelines fail to take into account adequate information," *In re Elias*, 294 Mich App at 522, this is that case. The severity of Wood's crimes was not adequately accounted for.

First, even though Wood now admits to helping carry out five murders, (Evaluation and Plan, p 4), the parole guidelines only count those crimes for which she pled guilty in court—one count of second-degree murder and one count of conspiracy. The very nature of this limitation undermines the Board's consideration of the severity of the crimes she committed and thus undermines their conclusion that she will not be a threat to the public safety. MCL 791.233(1)(a).

Additionally, the Board acknowledged that its statistical risk assessment of Wood's potential to commit assaultive crimes or property crimes lacked sufficient information to conclude Wood would not be a danger. (Scoresheet, p 2.) Contrast this with *In re Elias*, 294 Mich App at 539–540. In *Elias*, the Board had sufficient information to complete a statistical risk assessment and determined that Elias had

“a low risk of engaging in violent or recidivist behavior.” In affirming the Board’s decision on appeal, the Court of Appeals found that aspect important. But such is not the case here—the Board acknowledged that it did not have sufficient information on that point. And again, while Wood’s conduct in prison may have been largely positive, (Scoresheet, p 2), the Board’s consideration of her risk for assault, especially in light of the nature of her crimes, provides inadequate assurance that the public will be protected. “Insufficient information” to conclude that Wood will not be a risk is, in itself, a deal breaker.

Moreover, the scoring under the guidelines undervalues the crimes Wood was convicted of compared to her conduct in prison. In assessing a 14-point score—putting Wood in the range of “high probability of parole”—the Board assessed Wood a meager -2 points for the crimes she committed. (Scoresheet, p 1.) By comparison, the mere fact that Wood is a long-term prisoner and is 56 years old adds 4 points. (Scoresheet, p 2.) Consequently, the mere fact that Wood has to date served a lengthy sentence for her crimes *doubly negates* the heinous nature of the course of conduct that led to her incarceration—it essentially disregards the fact that she helped carry out sadistic killings of vulnerable adults entrusted to her care. In light of these shortfalls, this evaluation does not adequately ensure the protection of the public, as contemplated by MCL 791.233(1)(a), and this Court should reverse the Board’s decision.

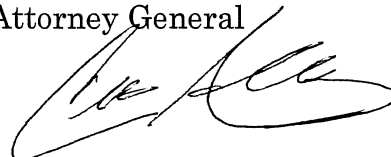


## CONCLUSION AND RELIEF REQUESTED

The Attorney General respectfully requests this Court reverse the Board's decision or, in the alternative, asks this Court to require the Board to reevaluate its decision to take into proper account the severity of Wood's crimes, MCR 7.118(H)(4); 7.118(J)(2).

Respectfully submitted,

Dana Nessel  
Attorney General

A handwritten signature in black ink, appearing to read "Chris Allen", written over the printed name of Christopher M. Allen.

Christopher M. Allen (P75329)  
Assistant Solicitor General  
Attorney for Amicus Party Attorney  
General Dana Nessel  
P.O. Box 30212  
Lansing, MI 48909  
517-335-7628

Dated: May 30, 2019

STATE OF MICHIGAN  
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KENT COUNTY

STEPHANIE SCRUGGS, DENISE MARIE  
CECCON, JANICE LUCILLE  
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HON. J. JOSEPH ROSSI

v

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John Engman (P13198)  
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Attorney for Plaintiffs-Appellants  
4095 Embassy Drive, Suite D  
Grand Rapids, MI 49546  
616-454-5222

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161 Ottawa NW, Suite 300-H  
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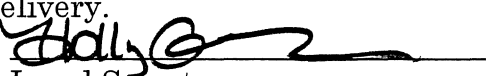
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H. Steven Langschwager (P52380)  
Assistant Attorney General  
Attorney for Appellee-Intervenor  
Michigan Parole Board  
P.O. Box 30217  
Lansing, MI 48909  
517-373-4875

---

**PROOF OF SERVICE**

The undersigned certifies that on May 30, 2019, a copy of AMICUS BRIEF OF ATTORNEY GENERAL DANA NESSEL was *overnight* mailed to John Engman and Roland Lindh, attorneys of record in the above-captioned case by mailing the same to them at their respective addresses. Attorney for Appellee-Intervenor H. Steven Langschwager was served via hand delivery.

  
Legal Secretary

\* \* \* Communication Result Report ( May.30. 2019 3:20PM ) \* \* \*

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STATE OF MICHIGAN  
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ATTORNEY GENERAL

May 30, 2019

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