STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

-v-

EDWIN LAMAR LANGSTON,
Defendant.
_____/

L.C. No. CC-76-002701-FC

C.O.A. No. 358537

S.C. No 163968

AMICUS CURIAE BRIEF IN SUPPORT OF

THE NATIONAL LIFER'S OF AMERICA, INC., CHAPTER 1010

* * * * * EXHIBITS * * * * *

PROOF OF SERVICE

By: Steven Bailey #233120
President, Chapter 1010
National Lifer's of America, Inc.
Kinross Correctional Facility
4533 W. Industrial Park Drive
Kincheloe, Michigan 49788-0001

The National Lifer's of America, Inc., Chapter 1010, respectfully request that this Honorable Court grant this motion, and accept for filing the attached Amicus Curiae Brief in Support.

Dated: 7/26/24

Respectfully Submitted By:

Steven Bailey

Steven Bailey 233120
President, Chapter 1010
National Lifer's of America, Inc.
Kinross Correctional Facility
4533 W. Industrial Park Drive
Kincheloe, Michigan 49788-0001

VERIFICATION

County of Chippewa)
)ss
State of Michigan)

On this ____ day of _____, 2024, I, Steven Bailey, Prisoner Number 233120, personally appeared before me as the person who signed the foregoing "Motion for Leave to File Amicus Curiae Brief," under an oath the he had read the foregoing "Motion for Leave to File Amicus Curiae Brief," and that he subscribed to and swore that he knew the contents thereof to be true of his own knowledge, except as to matters therein stated specifically to be on information or belief, and as to those maters, he truly believes them to be true and accurate.

Steven Bailey

Steven Bailey

_____
Notary Public

_____
County State

T Millu
Notary Public-State of Michigan
County of Chippewa
Acting in the County of Chippewa
My Commission Expires 05/08/29

T. Millu 7/15/2024

My Commission Expires: _____

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THE TRIAL COURT DID NOT ANSWER	" "
THE COURT OF APPEALS DID NOT ANSWER	" "
DEFENDANT APPELLANT ANSWERS	" NO "
(NLA) AMICUS CURIAE ANSWERS	" NO "

QUESTION PRESENTED

IS THE FELONY-MURDER PROVISION AS APPLIED THROUGH THE AUTHORITY OF M.C.L. 750.316; M.S.A. 28.548, CONSTITUTIONAL?

THE DEFENDANT ANSWERS "NO."

THE PLAINTIFF ANSWERS "YES."

The National Lifer's of America, Inc., better known as simply "the "NLA," came into existence in the late seventies, by a class of prisoner's known within the prison system as "Lifer's." Their collective goal then, as it still is today, is to effect changes in the wording of First and Second Degree Murder statutes, as well as Parole Board Policy and Procedure, through the incorporation of mandatory language, such as "shall," in the place ad of terms that allowed for personal bias, arbitrary and capricious actions to occur, such as the term "may."

Today the NLA represents men and women throughout the State of Michigan, with a Chapter in nearly every Level II facility, as well as Chapters in other levels of security within the Michigan Department of Corrections, full of men and women who have been convicted of a criminal offense, and who are service any length of sentence, whether it be Life with, or without the possibility of parole, determinate or indeterminate,

Our purpose in submitting this Amicus Curiae Brief is to represent the class of prisoner that is serving a conviction for "first-degree felony-murder," and who have been sentenced to, for all practical purposes, their death while incarcerated. It is a very well known Political fact, Governor's of the State of Michigan, at least since Governor Milliken served, do not commute the sentences of those serving a LWOP sentence for first-degree murder, felony-murder or otherwise.

Thank you in advance for taking the time to hear our plea.

STANDARD OF REVIEW

Issues of statutory interpretation are questions of law which are reviewed de novo. ***People v McCuller***, 479 Mich. 672, 678; 739 N.W.2d 563 (2007). When determining the true meaning ("nature") and intended application of a criminal statute, the objective is to ascertain and give effect to the Legislature's intent when creating the criminal statute. ***People v Phillips***, 469 Mich. 390; 666 N.W.2d 657 (2003).

Michigan Constitution, 1963, Art. IV, § 24, states:

> "*No law shall embrace more than one object, which shall be expressed in its title.*"

and further, the "Title" of the statute used by the State of Michigan to charge Mr. Langston, was the "First Degree Murder" statute, being MCL 750.316; MSA 28.548. It was ***not*** a "First Degree Felony Murder" statute.

This Court has determined that:

> "*Anything included in a statute which is not germane to the general purpose expressed in the title will bring the statute within the prohibition of the constitution.*" ***People v Morton***, 384 Mich. 38, 40; 179 N.W.2d 367 (1970).

THE FELONY-MURDER DOCTRINE OR RULE IS UNCONSTITUTIONAL.

(A.) The "felony-murder doctrine" or "rule" is not germane to the "*general purpose*" of the First Degree Murder statute, being MCL 750.316; MSA 28.548. This determination and conclusion is true, when one considers that under the common laws of this state the First Degree Murder statute cannot even be applied, lawfully or constitutionally, *until a murder has been proven*. (See, ***People v Charles Austin***, 221 Mich. 635; 192 2d 590 (1923)). Today, just as it was with ***Austin*** in 1923, the first-degree murder statute does not attempt to define murder, but simply classifies an unlawful homicide perpetrated in a particular manner as murder in the first- or second-degree, and has no application until a murder has been established. (See, ***People v Aaron***, 409 Mich. 672; 728 N.W.2d 304 (1980), and ***Weller v People***, 30 Mich. 16 (1874)).

As applied through statutory authority, the provision of a "felony-murder doctrine" or "rule" is in direct violation of the Michigan State Constitution, as well as a violation of Mr. Langston's rights under

the Due Process Clause of the United States Constitution, his right to a Fair Trial, and his right to be free from Cruel or Unusual punishment.

To allow the statute to be "interpreted" as a felony-murder statute is contrary to our very basic moral standards, and fundamental principles of law as they have, and must always be concerned with "personal culpability."

> "... *such an interpretation would require the Court to engage in judicial legislation and interpretation, in the nature of preserving a statute's constitutionality, would exhaust the constitutional prohibition that no law shall embrace more than one object, which shall be expressed in its title.*" Mich. Const. 1963, art 4, § 24, and MCLA 691.140.

Further, Mich. Const. 1963, art 3, § 7 clearly states that "*The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended, or appealed.*" MCL 750.316; being MSA 28.548, was amended in 1969 to include the criminal offenses of: "*Larceny of any kind, extortion or kidnapping*, but has never been "*changed, amended, or appealed* so as to alter it's original, intended meaning, as it was when adopted verbatim from Pennsylvania so long.

The felony-murder doctrine or rule has eroded the standards and principles of what defines the criminal act of "murder" in the State of Michigan. The Michigan Supreme Court had an opportunity to bring an end to this erosion, when they decided ***People v Aaron***, 409 Mich. 672; 728 N.W.2d 304 (1980), but failed to do so for various reasons, none of which actually went to the very constitutional nature of convicting an accused of a murder that they were not proven, beyond a reasonable doubt, to have committed, and thereby sentencing him or her to a sentence of Life without the possibility of parole ("LWOP"), a sentence that, in Michigan today, is considered to be a "death sentence in all but the manner of death chosen by the state" (See, ***People v Stewart***, 442 Mich. 889; 498 N.W.2d 430 (1993)).

The ***Aaron*** Court failed in their obligation as this State's Highest Court, when it (1) failed to address the unconstitutional nature of the felony-murder doctrine or rule, and (2) when they failed to give their decision retroactive application so that all those who had been convicted and thereby sentenced under an unconstitutional application of a very questionable doctrine of a highly suspect "presumptive" predicate.

There are still hundreds of individuals, in very similar circumstances as Mr. Langston, i.e., convicted of a murder they did not commit and serving the last of their very lives, some for more than 50 years, so far. (See Exhibit A, "Letter from Carol Siemon, Ingham County Prosecutor, in re Scott D. Dohn #147320, Lower Court Case No. 75-26811-FH, attached hereto).

THE FELONY-MURDER DOCTRINE OR RULE AS APPLIED TO "AIDING & ABETTING" IS UNCONSTITUTIONAL.

(B) It is unnecessary here to go into great detail as to the history of the felony-murder doctrine or rule, or of the effect it has had on our state's criminal justice system, especially as it is, or has been applied to those considered "aider's and abettor's." We need look no further than the case at issue here. The previous cases that we believe should apply, which we are positive this Honorable Court is well aware of, already, would begin with ***People v Potter,*** 5 Mich. 1; 71 Am Dec 763 (1858), ***People v Scott,*** 6 Mich. 287 (1859); ***Maher v People,*** 10 Mich. 212 (1862); ***Davis v United States,*** 160 U.S. 469; 16 S.Ct. 353; 40 L.Ed.2d 499 (1895), and ***People v Charles Austin,*** 221 Mich. 635; 192 N.W.2d 590 (1923), to name just a few of those controlling and exemplary examples that should, in fact, be considered here.

To understand that, in this great country, and in this great state, our criminal justice system has been predicated upon those elements necessary and required to prove, beyond a reasonable doubt, the "personal culpability" of the accused in relation to a specific criminal charge, and now, however, at least in the State of Michigan since the early to mid-seventies, where it is the use of the "presumption" and "imputation" of the specific elements that have been required to establish the crime of murder, being the norm.

Until this Court's decision in ***People v Aaron,*** 409 Mich. 672; 728 N.W.2d 304 (1980), the jurisprudence of the state was highly confused concerning this "shift" in what the crime of "murder" meant under the law, because of the introduction and application of a "felony-murder doctrine or rule." The reasons for this confusion are touched upon, with great clarity, in ***People v Craig,*** 66 Mich. App. 406; 239 N.W.2d 390 (1976).

It is our claim, the claim of Chapter 1010 of the National Lifer's of America, Inc., as stated herein that the felony-murder doctrine or rule, itself, is fundamentally flawed through its predicate that an underlying felonious act can supply the element of "malice" legally required and necessary for there to be a murder under the common-laws of Michigan, to any death that occurs during its commission, or even, as seen in some instances, the death occurred after its commission, or ancillary to it.

In this state, the criminal act of "*murder*" has always been described and defined through our "common laws," not through our criminal statute's (***Scott, supra,*** 6 Mich. at 292-293), as a homicide committed with malice, when we now describe and define such a personal act as one where a death results from a felonious act other than murder, and this "transference" of the malice one required and necessary for there to be a murder, to there needing to be another felonious act, inherently dangerous or

not . . . carries what has become in this state a death sentence in all but the manner of the death proscribed.

It is simply a violation of our standards of moral justice and our principles of fairness under the law to allow our common laws and criminal statutes to be hijacked by a rule or doctrine that not only allows, but promotes the interpretation and application of an unconstitutional and un-American variant in our jurisprudence and standards of criminal justice.

Doctrines of imputation, which is exactly what the "felony murder doctrine" or "rule" is at its very core, result, much too often, in liability where the accusers causal connection to the harm done is tenacious, at best, and in far too many instances, nonexistent. Under the complicity aspect of the "felony-murder doctrine" or "rule", a co-felon is held accountable and responsible for a killing, a "murder" that he or she did not commit, participate in, anticipate, or intend to happen, and convicted thereunder to the harshest and most severe sentence in the state, while the actor responsible for the killing, for the "murder," is often allowed to plead down, to a lesser-included offense, by "getting-off-first," slang for being the first to get a deal for their testimony against their co-felon, or co-felons.

If, as is the case in most first-degree felony-murder conviction, the perceived basis for the imputation ("transference") of the object element ("malice"), is the causal connection (the underlying felonious act), then where this causal connection is weak, such an imputation should be considered unjustified. Indeed, the various doctrines and rules that impute objective elements are well criticized in inverse proportion to the strength of the causal connection. Causing crime by an innocent is clearly accepted, and it is almost subsumed by the causal issue.

Complicity is widely accepted, as well, down this pathway to a conviction at all costs, although in some cases it has been limited to instances of "substantial assistance." ["Substantial assistance" is often required where the state of mind as to assistance (in the killing) must be knowing rather than purposeful. The Brown Commission, for example, recommended that legislature's replace the more readily known and traditional purposefulness requirement with the requirement that the actor "knowingly provides substantial assistance" (in the act of killing). NATIONAL COMM'S ON REFORM OF FEDERAL CRIMINAL LAWS, FINAL REPORT OF THE NATIONAL COMMITTEE ON THE REFORM OF FEDERAL LAWS, A PROPOSED NEW FEDERAL CRIMINAL CODE (1971)].

Felony murder and the natural, probable consequences rules, and vicarious liability have all been strongly criticized for their potential imposition for liability where the causal connection is weak, as it clearly is here in the case against Mr. Langston. "*It would be less capricious, and therefore a more*

solitary course, to provide that every fiftieth or every hundredth thief selected by lot be hanged" than to punish as murder unforeseeable homicides committed during the course of a felony. So concluded the Indian Law Commissioners in their dissertation concerning the Penal Code for the Governor General of India, in 1837. (See, "T. MACAULAY, A PENAL CODE PREPARED BY THE INDIAN LAW COMMISSIONERS AND PUBLISHED BY COMMAND OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL 65 (1837)(note M)). (See, also, "Causal Relations and the Felony-Murder rule," 1952 WASH. U.L.Q. 191, 206-07, criticizing complicity aspect of felony-murder rule on grounds that felon has little control over co-felon).

The analogy that exists among these causal theory doctrines of imputation more than illustrates the importance of the causal connection in all violent crimes, but especially as to the criminal act of murder due to the severity of the punishment therein. This analogy leads one to question variations in the culpability requirements that exist among the different doctrines. Two distinct culpable states of mind are absolutely pertinent to an actor's culpability as to causing, assisting, or encouraging another to satisfy the objective elements; and the actor's culpability as to the objective elements specified in the definition of the offense. The distinction is subtle here, but one state of mind as to whether one's conduct will assist the perpetrator in causing a result (a homicide), for example, is distinguishable from one's state of mind as to the result of the perpetrator's actual conduct. One may want to assist the perpetrator, but not want a harmful result to manifest itself therefrom.

One cannot be an accomplice to murder unless one is knowing or purposeful as to causing the death. One is not an accomplice to reckless or negligent homicide unless one is reckless or negligent as to causing the death. There are elements that a Court ***must establish*** in the course of the criminal proceedings, yes? YES! Such a requirement of personal culpability as to the defining elements of the crime of murder, not those of some other felonious act, whether "inherently dangerous" or not, whether enumerated within the statute, or not, whether they "should be" but are more often not, explicit in the causes of crime by an innocent, but are, instead, extremely ambiguous in these matters before us today.

Today, when an individual is sentenced to Life Without the Possibility of Parole in the State of Michigan, just as it has been for forty years now, within the statistics gathered as to how long such an individual will serve on this sentence will show it is, in the vast majority of cases, their entire lives behind bars, until they die. In the mid to late nineteen seventies, when Mr. Langston was convicted and sentenced to LWOP, just as it is with hundreds of individuals represented by the NLA here, the "average" time served on a first-degree "Life" sentence was 18-22 years, due to the number of those convicted and sentenced for such a criminal act as first degree murder being less than today, as this "trend," using the felony murder doctrine or rule to convict and thereby sentence individuals for first degree murder as an

"aider and abettor," and the fact of Governor's commuting more LWOP sentences back then. Today, it is very rare to find such a commutation, for various political reasons that have nothing to do with the public safety, and everything to do with political career paths, as seen through such political posturing from the right of center (not that long ago) which was intended to treat all life sentences handed down from the courts under the banner of "Life means Life."

United States Supreme Court Justice Blackmun's Dissent in re ***Herrera v Collins***, 506 U.S. 390; 1135 S.Ct. 853; 122 L.Ed.2d 203 (1992), is instructive here, where he stated:

> "*I believe it contrary to any standard of decency to execute someone who is actually innocent. Because the Eighth Amendment applies to questions of guilt or innocence,* ***Beck v Alabama****, 477 U.S. at 638, and to person's upon whom a valid sentence of death has been imposed,* ***Johnson v Mississippi****, 486 U.S. at 590, I also believe that petitioner may raise an Eighth Amendment challenge to his punishment on the ground that he is actually innocent."* ***Herrera v Collins****,* ***supra****,* 506 U.S. at 435.

Chief Justice Blackmun further stated:

> "*Execution of the innocent is equally offensive to the Due Process Clause of the Fourteenth Amendment. The majority's discussion misinterprets petitioner's Fourteenth Amendment claim as raising a procedural, rather than a substantive, due process claim.* ***Id.***

Mr. Langston is actually, i.e., "factually and under the common law of this state," ***innocent*** of committing murder, yet he may very well die as a direct result of the wrongful conviction and cruel sentence he received, and any due process challenge that he may make would surely be "substantive, and not "procedural.

Further, execution of the innocent is equally offensive to the Due Process Clause of the Fourteenth Amendment, and while the criminal laws of the great State of Michigan have not only been concerned with guilt or innocence in the abstract, but also with the degree of criminal liability (***Mullaney v Wilbur***, 421 U.S. 611; 95 S.Ct. 1851, 1889; 44 L.Ed.2d 508 (1975)), this view has slowly degraded over the years because of the use of the felony murder doctrine. Michigan once distinguished those who kill willfully, with premeditation and deliberation, from those who kill in the sudden heat of passion, because the former was, and we believe still is, more "blameworthy."

This very Court has, from the very beginning of the development of the jurisprudence of this state, acknowledged that first-degree murder is a "*more atrocious*" crime than its second-degree counterpoint. (See, ***Potter, supra,*** fn 6, p 7). In 1876, this Court observed that "*It was rightly considered that what is*

done against life deliberately indicates a much more depraved character and purpose than what is done hastily or without contrivance." ***Nye v People***, 35 Mich. 16, 19 (1876). This Honorable Court further ruled that "*... it is a perversion of terms to apply the term deliberate to any act which is done on sudden impulse.*" (***Nye, supra***).

DUE PROCESS CONSIDERATIONS

(C) The safeguards of due process are not rendered unavailing simply because a determination may already have been reached that would stigmatize the defendant and that might lead to a significant impairment of personal liability. The fact remains that the consequences resulting from a verdict of first degree murder, as opposed to that for, or compared with a verdict of second degree murder, differ significantly. Indeed, when viewed in terms of the potential difference in the restrictions of personal liberty attendant to each conviction, the distinction is stark. Mr. Langston may very well die while he is incarcerated for his wrongful conviction, when his death is abhorrent to the ends of justice here.

While Michigan criminal law has permitted, and in our opinion ***encouraged*** through the higher Court's failure to limit it instead, when it has had the opportunity, the "*imputation*" of both the objective and culpability elements of a crime in this matter, this very narrow and specific "*permission*" does not mean that it was then, at the time Mr. Langston's trial, or that it is today, ***constitutional*** to do so. Such "permission" to interject the imputation of the objective element of malice to a what has been deemed a "specific intent" crime, that of first degree murder, while also applying the harshest form of punishment for a conviction therein, flies in the face of all those moral standards surrounding personal culpability, and principles of "fair play" that we as a society have attempted to create.

It is our belief that such "permission" as the felony-murder doctrine grants, it does not grant such latitude with respect to the requisite elements of a crime to be "presumed" or "imputed" in every circumstance where a death has been a direct result of another felonious act, whether that act is "inherently dangerous to life," or not. The criminal act of "murder," in this great State, requires either an intentional or knowing act, an unlawful homicide or the "killing" of one person by another person, or a recklessness "manifesting extreme indifference to the value of human life." But if an accidental killing occurs in the course of, for example, a robbery, the "felony-murder doctrine" or "rule" ***may aggravate the actor's culpability*** and allow a conviction for "murder." ***May*** being the crux of the matter here. It is a fact that this extremely complex set of judgments are not fairly applied to every "death," in every "unlawful homicide," or in every "killing" found to have occurred as a direct result of participation in another felonious act. It has not been applied fairly here, in this matter before you, and it is time that such a distinction concerning an actor's personal culpability be recognized as pertinent.

"*To prove murder, the people must demonstrate that the defendant acted with malice in causing the death of another.*" ***People v Dumas***, 454 Mich. 390, 396-97; 563 N.W.2d 31 (1997)(citing ***Aaron, supra,*** 409 Mich. at 728). "*Malice is defined as (1) the intent to kill, (2) the intent to great bodily harm, or (3) a wanton and willful disregard of the likelihood that the natural tendency of the defendant's act is to cause death or great bodily harm, i.e., depraved-heart murder.*" ***Id, Aaron, supra.***

This Court abolished the common-law felony-murder rule, which had previously established that an actor was guilty of murder for a homicide that occurred during the course of an "underlying felony," if he had the intent to commit the underlying felony, insofar as this rule equated malice with the intent to commit the underlying felony. See 409 Mich. at 727-728. "*Rather, the people must prove one of the three intents that define malice in every murder case.*" ***id.*** at 728.

Michigan's felony-murder provision, as it was structured within the First Degree Murder statute at the time of Mr. Langston's arrest and trial (MCL 750.316; MSA 28.548), was not intended to be applied where the underlying felonious act was not "inherently dangerous," which would be objectively determined by the unique mitigating circumstances surrounding its commission, and not from simply citing the underlying felonious criminal act by statute and title.

As seen from the case against Mr. Langston, from the very beginning there were no indicator's which would establish that he participated in the death of the victim of the underlying robbery he and his co-felon were perpetrating. Just the opposite is, in fact the case. There is evidence which establishes that he did aid and abet his co-felon in the robbery, there is no question as to this fact. However, Mr. Langston did not aid, abet, assist or empower in any fashion the act of shooting the victim Arretta Lou Ingraham. The prosecution's claim that "*... any killing committed in the course of a robbery is first-degree murder under MCL 750.316; MSA 28.548*" is not correct nor accurate as to what the statute grants the state the authority to do. It is not *any killing*," but "*All murder ...*" that is committed during the perpetration or attempt to perpetrate a robbery that the statute above is meant to punish.

Mr. Langston did not assist or participate in the actions which were the direct cause of, and resulted in the death of the victim, and because his co-felon Ronald Wilson acted on his own initiative to shoot and kill while he, Mr. Langston, was there, is not murder under the common laws of this state. In fact, it is abhorrent to the laws of this state for the resultant sentence he received, to stand. The death of Mr. Langston, from a sentence that he received for his specific and particular participation in the robbery, is not justice, is not "proportionate," and is certainly not lawful nor constitutional in light of his age when he committed the robbery.

AT THE TIME OF MR. LANGSTON'S CONVICTION THE STATUTE UNDER WHICH HE WAS CHARGED AND CONVICTED DID NOT EXPRESS THAT THE PUNISHMENT WOULD BE "LIFE WITHOUT THE POSSIBILITY OF PAROLE"' ("DEATH THROUGH INCARCERATION AS AN AIDER & ABETTOR").

(D) The statute herein under review was amended in 2014, ***THIRTY-EIGHT YEARS AFTER MR. LANGSTON'S CONVICTION***, to stipulate that the punishment for first degree murder was to be "... *life without eligibility of parole*," as opposed to what the punishment for first degree murder was for a conviction when Mr. Langston was convicted, which was "... *and shall be punished by solitary confinement at hard labor in the state prison for life.*" The fundamental difference between these two degrees or punishment for the crime of **first degree murder**, not for "aiding and abetting" in a felonious act where a death occurred, is death through a lifetime of incarceration.

The Eighth Amendment's prohibition on cruel and unusual punishment flows from the basic principle of justice that punishment for crime should be graduated and proportioned to both the offender and the offense. This is exactly in line with the purpose of the criminal statute to which Mr. Langston was charged. The First Degree Murder statute, MCL 750.316; MSA 28.548, *does not apply until a murder has been proven, so as to graduate the degree of murder, not define it.*

RELIEF SOUGHT

Based upon what is undeniable legal principles as to what, in this Great State of Michigan, constitutes those elements necessary and required for a charge of murder to stand, as they are herein coupled with the undisputed scientific research and evidence concerning adolescent brain development, which categorizes 18, 19, 20, and 21 year old individuals as being in the category of late adolescence, Amicus humbly requests that this Court expand it's review of this (20) year old defendant to then include all adolescents who were 19 and 20 years old at the time of their offense.

Thank you for taking the time to read and consider the position of a Chapter of the National Lifer's of America, Inc., in this very serious matter. We, as a body and class of incarcerated individuals, and for all those who are similarly situated through a harsh and severe punishment, sincerely give thanks.

Dated: _____ _____, 2024

Submitted By:

_____
Steven Bailey, #233120

President, Chapter 1010
National Lifer's of America, Inc.
Kinross Correctional Facility
4533 W. Industrial Park Drive
Kincheloe, Michigan 49788-0001

EXHIBIT A

"Letter in Support" from Prosecuting Attorney Carol Siemon, dated December 17, 2021, for the Request for Commutation submited by the University of Michigan's Juvenile Clinic on behalf of Scott D. Dohn (in re Case No. 75-26811-FH).

CAROL A. SIEMON
INGHAM COUNTY PROSECUTING ATTORNEY

MICHAEL S. CHELTENHAM
Chief Assistant Prosecutor

JOHN J. DEWANE
Deputy Chief Assistant Prosecutor

December 17, 2021

Michigan Parole Board
Pardon and Commutations Coordinator
PO Box 30003
Lansing, MI 48913

Dear Coordinator:

It's my understanding that Scott Dohn #147320 is a person sentenced to life without parole sentence for a felony-murder in 1976 from our county of Ingham.

An attorney advocating for Mr. Dohn's commutation is submitting an application on his behalf. I believe Mr. Dohn should be found to have merit for a full-fledged commutation review, one where victim representatives, prosecutors, and judges are all provided notice. As Prosecutor, I support commutation and would also provide an additional letter of that support if the Parole Board undertakes a full hearing.

Mr. Dohn committed his offense at age 20 in 1976, pled guilty, and has now age 66 and has served 45 years in prison. The parole board could well consider if three of the principles of prison incarceration have now been achieved; First, protection of the public; secondly, recognition of the impact on victims/survivors of the offense; thirdly, rehabilitation of the offender.

Inside the prison, Mr. Dohn has had a favorable record. There have been no violent offenses, and no misconducts of any kind for the past nine years. Mr. Dohn has received extensive education and job training, earning a GED as well as five professional certifications. He has been working and has a consistent employment history. He's completed all recommended education and services.

Mr. Dohn has also had extensive work on behavior modification, anger management, and conflict resolution. I believe that a past assessment by MDOC showed that he did not have a serious risk of recidivism, especially that of a violent nature. I believe it's worth considering whether the 66-year old Scott Dohn has made a significant change from his life as a 20-year old.

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pa.ingham.org

I believe the parole board should conduct a full-scale evaluation of Mr. Dohn's case, in part to determine if there are surviving victim representatives who would contact the board and weigh in. It's my experience that victims and their surviving families/victim representatives have a range of feelings and beliefs about these types of serious cases, especially over the passage of time. I am not certain if there are surviving family because, as you are aware, once an inmate is convicted, the MDOC becomes the primary contact point for victims and their surviving families.

I would be interested to see the parole board's assessment of whether this inmate would pose a threat to the public safety if commuted and paroled. Given his track record, I believe there are multiple favorable factors to consider; the length of his sentence to date, his participation in MDOC therapy, education, training, and employment, and the record of good conduct within the institution.

The next step in Scott Dohn's case is a decision whether the parole board will grant a full hearing to consider commutation. I would support that step and plan to support commutation, given numerous factors such as the public safety, threat of recidivism, the term of years served, and the offender's age on the date of the crime.

Carol A. Siemon

Carol A. Siemon