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DEBORAH L. McHENRY, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

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Starcher, C. J., dissenting:

Although I somewhat reluctantly authored the previous majority opinion in *Carper*, I dissent to the decision in this case. I do so because I do not think that the majority opinion in *Carper* went far enough in protecting the *ex post facto* rights of the petitioner in that case.

I have no problem with the propriety of the *Carper* decision's requiring certain standards and procedures of the parole board in granting parole set-offs of more than 1 year. I also have no problem with this Court establishing such standards and procedures so as to hold a statute constitutional. And, if the Legislature finds the standards to be objectionable and wants to establish other procedures and standards that meet constitutional muster, the Legislature can do so.

Carper, as far as it went, was fine. But *Carper* represents as far as three other members of this Court would go at the time it was being decided, and I joined them in going that far, and I wrote the opinion. That's jurisprudence.

But, to me, neither *Carper* nor this case goes far enough in taking a stand against any erosion of the vital and fundamental *ex post facto* clause of our constitution, and I feel the need to so state today.