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SUPREME COURT
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DEPUTY

No. _____
(Related Appeal No. S005502)
(Kern County Superior Ct. No. 33477)

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

IN RE DAVID KEITH ROGERS,
Petitioner.

On Habeas Corpus, Following A Judgment Of Death
Rendered In The State Of California, Kern County
(Hon. Gerald K. Davis, Judge Of The Superior Court)

**PETITION FOR WRIT OF HABEAS CORPUS
(VOLUME ONE OF TWO)**

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DEATH PENALTY

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PETITION FOR WRIT OF HABEAS CORPUS

TO: THE HONORABLE RONALD M. GEORGE, CHIEF JUSTICE OF CALIFORNIA, AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:

DAVID KEITH ROGERS, confined on death row at the California State Prison at San Quentin, petitions this Court by and through the undersigned counsel to issue a writ of habeas corpus ordering that his convictions and sentences in Kern County Superior Court Case No. 33477, including his conviction for capital murder and his sentence of death, be vacated. By this verified petition, Petitioner alleges the following facts and causes for the issuance of said writ:

UNLAWFUL RESTRAINT

1. Petitioner David Keith Rogers is unlawfully confined and restrained of his liberty at San Quentin State Prison, San Quentin, California, by C.A. Terhune, Director of the California Department of Corrections, and by Theresa Rocha, Warden of the San Quentin State Prison.

2. Petitioner David Keith Rogers is confined under sentence of death, pursuant to the judgment of the Superior Court of California in and for the County of Kern, Superior Court Criminal Case No. 33477, rendered on May 2, 1988. RT 5998-99; CT 735-40.¹

THE UNDERLYING CRIMINAL CASE

A. Proceedings Before Trial.

3. On April 1, 1987, Petitioner Rogers was charged in Information No. 33477 with two counts of murder in violation of Penal Code Section 187.² In Count one, Petitioner was charged with the

¹Throughout this Petition, the abbreviation "CT" refers to the Clerk's Transcript, "CTS" refers to the Supplemental Clerk's Transcript and "RT" refers to the Reporter's Transcript on appeal in *People v. Rogers*, No. S005502. "AOB," "Supp. AOB," "RB" and "ARB," refer respectively to Appellant's Opening Brief, Appellant's Supplemental Opening Brief, Respondent's Brief, and Appellant's Reply Brief in the aforementioned direct appeal.

²All further statutory references are to the Penal Code, unless
(continued . . .)