

*** DEATH PENALTY CASE ***

Supreme Court of the United States

OCTOBER TERM, 2019

DAVID KEITH ROGERS, *Petitioner*

vs.

THE STATE OF CALIFORNIA, *Respondent*

APPENDIX

Appendix Document A

S084292

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DAVID KEITH ROGERS on Habeas Corpus

The order filed on December 19, 2007 is hereby amended to read in its entirety:

The Director of the Department of Corrections and Rehabilitation is ordered to show cause in this court, when the matter is placed on calendar, why the relief prayed for should not be granted on the following grounds alleged in the petition for writ of habeas corpus filed on December 14, 1999:

- 1) newly discovered evidence and use of false evidence, as alleged in claim III;
- 2) the prosecution's failure to disclose exculpatory evidence, as alleged in claim IV;
- 3) ineffective assistance of counsel, as alleged in subclaims (G), (K), (L), (M), (N), and (O) (to the extent petitioner alleges failure to request CALJIC No. 2.92) of claim V;
- 4) cumulative penalty phase prejudice arising from the facts alleged in the subclaims of claim V identified in paragraph 3) above, as alleged in subclaim (Q) of claim V; and
- 5) cumulative penalty phase prejudice arising from the facts alleged in the claims and subclaims identified in paragraphs 1) through 4) above, as alleged in claim VI.

The return must be filed on or before January 18, 2008.

Kennard, Werdegar, and Moreno, JJ., would also include within the order to show cause the ground of juror misconduct on the part of juror Edward Sauer, as alleged in claim I.

George
Chief Justice

Appendix Document B

SUPREME COURT
FILED

JUN 24 2015

S084292

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

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Petitioner's "Motion to Expand Scope of Order to Show Cause," filed December 30, 2014, is construed as a request for leave for petitioner to supplement, with the facts and argument in the motion, Claim I of his petition for writ of habeas corpus filed on December 14, 1999, and a request to expand the order to show cause issued on December 20, 2007, to include the subclaims addressed in the motion. So construed, the request to supplement the petition for writ of habeas corpus is granted, and the request to expand the order to show cause is denied.

CANTIL-SAKAUYE

Chief Justice

Appendix Document C

SEP 25 2019

Jorge Navarrete Clerk

S084292

Deputy

IN THE SUPREME COURT OF CALIFORNIA

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With respect to the petition for writ of habeas corpus filed December 14, 1999, all claims challenging the judgment of death, other than those claims that were the subject of the evidentiary hearing (Claims III, IV and a portion of Claim V), are denied as moot. (See *In re Rogers* (2019) 7 Cal.5th 817, 851.) All claims challenging the murder convictions or the jury's special circumstance finding are denied on the merits. Petitioner is remanded to the Superior Court of Kern County for further proceedings.

CANTIL-SAKAUYE

Chief Justice