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No. 89-6716

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1989

ANTHONY LEROY PIERCE,
Petitioner

v.

THE STATE OF TEXAS,
Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE TEXAS COURT OF CRIMINAL APPEALS

PETITIONER'S REPLY TO RESPONDENT'S
OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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I. PETITIONER'S PENRY CLAIM IS PROPERLY BEFORE THIS COURT BECAUSE THE TEXAS BRIEFING RULE INVOKED TO DENY REVIEW BELOW WAS SELECTIVELY APPLIED AGAINST MR. PIERCE AND IS NOT AN "ADEQUATE" RULE, STRICTLY AND REGULARLY FOLLOWED. 1

II. RESPONDENT MISCONSTRUES THIS COURT'S HOLDINGS IN WOODSON, LOCKETT, AND PENRY. 3

III. RESPONDENT'S DUE PROCESS ARGUMENT COMES TOO LATE AND IS UNTENABLE, AND ITS COMPULSORY PROCESS ARGUMENT HAS NO BASIS IN LAW. 6

CONCLUSION 8

PROOF OF SERVICE 9

Lockett v. Ohio,
418 U.S. 680 (1975)

Madson v. State,
721 S.W.2d 219 (Tex. Cr. App. 1986)

Nichols v. State,
754 S.W.2d 185 (Tex. Cr. App. 1988)

Penry v. Landrau,
492 U.S. 150 (1989)

Pennington v. Ritchie,
480 U.S. 33 (1987)

Pierce v. State,
717 S.W.2d 355 (Tex. Cr. App. 1986)

Price v. State,
753 S.W.2d 98 (Tex. Cr. App. 1988)