

No. 19-5413

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

JOHN ROONEY,

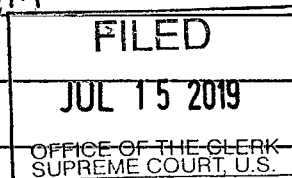
Petitioner,

v.

STATE OF GEORGIA,

Respondent

ON Petition For Writ of Certiorari
TO THE COURT OF APPEALS OF GEORGIA



PETITION FOR WRIT OF CERTIORARI

JOHN ROONEY

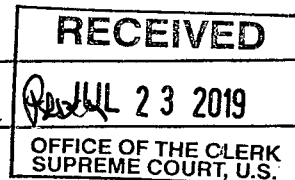
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QUESTIONS PRESENTED

CAN convictions AND sentences imposed by
A STATE TRIAL Court without Constitutional
or Statutory subject-matter jurisdiction
due to an Unconstitutional guilty plea
be used to incarcerate Petitioners over
24 YEARS?

LIST OF PARTIES

[X] The names of all parties appears in the caption of the case on the cover page.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

☒ FOR CASES FROM STATE COURTS:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is
☒ unpublished

The opinion of the Court of Appeals of Georgia appears at Appendix D to the petition and is
☐ has been designated for publication but is not yet reported

JURISDICTION

[X] For cases from state courts:

The date on which the highest state court decided my case was: 6 May 2019

A copy of that decision appears at Appendix C.

[X] A timely petition for rehearing was thereafter denied on the following date: 3 June 2019, and a copy of the order denying rehearing appears at Appendix D.

The jurisdiction of this Court is invoked under 28 USC § 1257 (4).

CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution

1) Article 6, Clause 2

2) Amendment 5

3) Amendment 8

4) Amendment 9

5) Amendment 14

STATE CONSTITUTIONAL PROVISIONS

1) Art. 1, Sec. 1, Para 1: Life, liberty, and Property:
No person shall be deprived of life, liberty, or property except by due process of law.

2) Art. 1, Sec. 1, Para 2: Protection to person and property; equal protection:
Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.

3) Art. 1, Sec. 1, Para. 16: Self-incrimination:
No person shall be compelled to give testimony in any manner to be self-incriminating.

4) Art. 1, Sec. 1, Para. 17: Bail; fines; punishment; arrest, abuse of prisoners:
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; nor shall any person be abused in being arrested, while under arrest, or in prison.

5) Art. 1, Sec. 1, Para. 22: Involuntary servitude:
There shall be no involuntary servitude within the State of Georgia except as a punishment for crime after legal conviction thereof or for contempt of court.

6) ART. 1, Sec. 1, Para. 28: Enumeration of rights not denial of others:

The enumeration of rights herein contained as part of this Constitution shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed.

STATE STATUTES

OARON Code of Georgia Annotated

[OCGA]

1) OCGA 15-1-2: No jurisdiction by consent, waiver of personal jurisdiction:

Parties may not give jurisdiction to a court by consent, express or implied, as to the person or subject matter of an action. However, lack of jurisdiction of the person may be waived, insofar as the rights of the parties are concerned, but not so as to prejudice third persons.

2) OCGA 17-9-4: Validity of judgment rendered by court having no jurisdiction of person or subject matter:

The judgment of a court having no jurisdiction of the person or subject matter, or void for any other cause, is a mere nullity and may be so held in any court when it becomes material to the interest of the parties to consider it.

3) OCGA 17-10-13: legal adjudication of guilt in court having jurisdiction to prescribe assessment of punishment:

The punishments prescribed in this Code shall be assessed only after a legal adjudication of guilt in a court having jurisdiction.

UNIFORM SUPERIOR COURT RULES [USCR]

1) USCR 33.8.B: Informing defendant on the record that by entering a plea of guilty or no contest one waives the:

- a) USCR 33.8.B(1): Right to trial by jury
- b) USCR 33.8.B(2): Right to confront witnesses against oneself
- c) USCR 33.8.B(7): Right not to incriminate oneself, and that by pleading not guilty or remaining silent and not entering a plea one obtains a jury trial

STATEMENT OF THE CASE

The instant Petition is from the denial by the Superior Court of Gwinnett County, Georgia of Petitioner's Motion to Support to Vacate, Unconstitutional, Null, and Void Sentences on 28 June 2018 [See App. E] by the Honorable Debra K. Turner.

Petitioner enumerated a single plea to the Trial Court: Due to Defendants' Unconstitutional Guilty Plea [per Booth v. Alabama, 89 SCT 1709 (1965)] the Trial Court never had the requisite Constitutional or Statutory subject-matter jurisdiction to impose (illegal/unconstitutional) sentences, therefore Defendants' sentences are void ab initio.

The Trial Court made no findings as to the plea or issues. See App. E.

Petitioner submitted both US and State Constitutional issues and standards for review.

The 10 July 1995 Guilty Plea was accepted by the Honorable Homer S. Stock, Chief Judge who imposed a 64-year, some 50 year sentence.

Trial Court was Ronnie K. Batchelor Esq. a Superior Court judge in Gwinnett County I.

No direct appeal with counsel was offered nor provided.

A direct appeal to the Georgia Court of Appeals was docketed on 27 August 2018.

Petitioner enumerated two issues:

- 1) Can an Unconstitutional Guilty Plea per Bookin be used to incarcerate appellant under illegal, null, and void sentences;
- 2) Can the Trial Court implicitly evade Appellant's US Constitutional Rights.

Standards of Review included both US and State Constitutional Rights.

The Court of Appeals denied on 4 Oct 2018. See App. A.

Reconsideration was denied on ~~by~~ that Court of Appeals

A Certificate of Probable Cause was docketed by the Supreme Court of Georgia on 22 Oct 2018.

Petitioner enumerated four errors in his Certificate of Probable Cause with Standards of Review [US and State Constitutional]:

- 1) Can an Unconstitutional Guilty Plea per Boykin v. Alabama, 395 U.S. 1709 (1969)] be used to increase Appellant on illegal, null and void sentences
- 2) Can Appellant rescue to illegal sentences from an Unconstitutional Guilty Plea
- 3) Can Appellant confer subject-matter jurisdiction to the Trial Court via an Unconstitutional Guilty Plea
- 4) Can Georgia Courts implicitly evade Appellant's 5th Amendment privilege against compulsory self incrimination [A "strict constitutional requirement"]

The Certificate of Probable Cause was denied on 6 May 2019. See App. C.

Reconsideration was denied on 3 June 2019.

Petitioner has no other recourse to relief of his involuntary servitude except this Court, certified on 15 June 2019 via notice to the State Court.

REASONS FOR GRANTING THE PETITION

A. UNCONSTITUTIONAL GUILTY PLEA

Petitioner avers that his 10 July 1995 Guilty Plea, accepted by the Superior Court of Gwinnett County was, is, AND REMAINS Unconstitutional.

Over 50 years ago in Boykin v. Alabama this Court mandated that for a guilty plea to pass Constitutional scrutiny and analysis it must evidence in the record that the defendant was advised of three US Constitutional Rights:

- 1) Right to a trial by jury
- 2) Right to confront ones accusers
- 3) privilege Against compulsory self-incrimination

See 89 SCT 1709 (1964); Park v. Park, 113 SCT 517 (1992)

Secondly, a guilty plea must be entered knowingly, intelligently, and voluntarily. See McCarthy v. US, 89 SCT 1166 (1968); also Bowley v. US, 118 SCT 1664 (1978) & Brady v. US, 90 SCT 1463 (1970); Michigan v. Jackson, 106 SCT 1404 (1986).

This Court's mandate that any guilty plea which does not meet these mandates is unconstitutional and must be reversed. See McCarthy, *supra*; Boykin, *supra*; US v. Price, 109 SCT 757 (1988)

Petitioner specifically set-up and asserted in the Guinnett Trial Court that his 10 July 1995 Plea was unconstitutional under Barker and its progeny.

During the Guilty Plea hearing Petitioner was never advised of his third Barker Right: the 5th Amendment privilege against compulsory self-incrimination. See App. E, p. 5 lns 1-24.

Petitioner was advised of his two 6th Amendment Rights:

- a) Right to a trial by jury [See App E, p 5 ln 12]
- b) Right to confront one's accusers [See App E, p 5 lns 13-14]

However, Petitioner's 5th Amendment Right was not provided.

The colloquy was as follows:

Ln 21: "You understand that if you plead not guilty or if..."

Ln 22: "you remain silent and enter no plea at all you would have..."

Ln 23: "trial by jury."

Ln 24: "Yes, sir..."

See App. E, P5, lns 21-24

The preceding colloquy of Petitioner's 10 July 1995 Guilty Plea does not comply with the Doyle mandate.

This Court has stated that:

"... where the record of a criminal conviction obtained by guilty plea contains no evidence that a defendant knew of the rights he was putatively waiving, the conviction must be reversed."

See US v. Dominguez-Benitez, 124 S.Ct. 2333 (2003).

Petitioner's Record is silent--- there was no advisement nor waiver of his 5th Amendment privilege. See Doyle, *supra*; Brady v. Stumpf, 125 S.Ct. 2398 (2005).

In Florida v. Nixon this Court held:

"... consent to a guilty plea cannot be inferred from silence. It must be based on express affirmation made intelligently and voluntarily. A guilty plea, we recognized in Doyle [89 S.Ct. 1709 (1969)] is an event of signal significance in a criminal proceeding. ... Moreover a defendant's tacit acquiescence in the decision to plead is insufficient to render the plea valid."

See 125 S.Ct. 551 (2004); Santobello v. New York, 92 S.Ct. 495 (1971) and Blackledge v. Perry, 94 S.Ct. 2098 (1974).

Without advisement evidenced in his 10 July 1995 Guilty Plea Transcript of his privilege against compulsory self-incrimination [See App E, p 5 LRS 1-24]; Petitioner's Guilty Plea was, is and remains unconstitutional. See Bowkin, supra.

GEORGIA BOWKIN STANDARDS

In GREEN V. STATE the Georgia Supreme Court found that a Georgia criminal defendants' protections against compulsory self-incrimination [See GA Const. Art. 1, Sec 1, Para 16] are greater than those of the 5th Amendment. See 398 SE2d 360 (1990).

The US District Court in McKell v. Bern noted:

"...defendants pleading guilty in Georgia enjoy reasonably demanding protections in this area [Bowkin]."

See CV-409-171 SDGA (2010).

Additionally, in Grisson v. Gleason the State Supreme Court held that its due process and equal protection paragraphs [See GA. Const. Art. 1, Sec 1, Paras 1 & 2] are substantially greater than the US Constitution. See 418 SE2d 27 (1992); also Suber v. Bulloch Co. Board of Education, 722 FS 736 SDGA (1989)

In 1992 the State Supreme Court proscribed Boyer violations that did not provide:

"... advice and waiver of the three Boyer Rights as a strict constitutional requirement, with reversal the automatic consequence if any violation is found to have occurred."

See Goodman v. Davis, 287 SE2d 26 (1982); also Hejeme v. McLaughlin, 766 SE2d 803 (2014).

Petitioner's 10 July 1995. did not comply with Boyer, nor the "strict constitutional requirements" of Georgia precedential law.

The Uniform Superior Court Rule [USCR] 33.8 (B) was followed for two of the Boyer Rights: 33.8(B)(1) & (3).

It was abridged for his third Boyer Right: 33.8(B)(7) reads:

"Right not to incriminate oneself, and that by pleading not guilty or remaining silent and not entering a plea one obtains a jury trial."

Contrast Petitioner's colloquy of:

"You understand that if you plead not guilty or if you remain silent and enter no plea at all you would have trial by jury." See App E, p 5 lns 21-23.

Georgia's appellate courts have pronounced that:
"... Failure to advise a pleading defendant of one of the three Boyer Rights can never be deemed harmless error." See Hejerman, supra;

In Tynes v. State, the State Supreme Court vacated a 27-year old murder conviction since the defendant was never advised of his 5th Amendment Right against compulsory self-incrimination. See 714 SE2d 577 (2011).

Tynes also noted:

"... Any defendant who pleads guilty will be able to secure a removal of his conviction if the record does not show that he was specifically advised of each of the three Boyer Rights and he properly presents the issue to a reviewing court."

Other defendants and/or appellants routinely have their Unconstitutional guilty pleas vacated for Boyer Rights violations [A "strict constitutional requirement", see Goodman, supra.] except Petitioner!

A silent record is no record. See Bowers v. Moore, 471 SE2d 869 (1996).

"A guilty plea does not bar a claim on appeal where on the face of the record [See App E, p 5 ln 1-24] the court had no power to enter the conviction or impose the sentence." See 138 Sct 798 (2012); also Menna v. New York, 96 Sct 241 (1975).

Additionally, the OCGA 17-10-13 expressly denied the Trial Court of its subject-matter jurisdiction not only due to an Unconstitutional Guilty Plea, but due to an illegal, null and void sentence.

See OCGA 17-9-4. See Tobert v. Toole, 767 SE2d 24 (2014); Hulett v. State, 766 SE2d 1 (2014); also US v. Broce, 109 Sct 757 (1984).

NULL AND VOID SENTENCES

Georgia's OCGA 17-9-4 provides for illegal, null and void sentences to be vacated [void ab initio] due to subject-matter jurisdictional defects. See Bush v. State, 548 SE2d 802 (2001); Weathered v. State, 529 SE2d 452 (1999); also see Zamedio v. State, 771 SE2d 733 (2015); Daniel v. State, A17A2099 (2016); Nazario v. State, 746 SE2d 109 (2013).

Without a Constitutional Guilty Plea [per Beckin] the Guinnett Trial Court had no Constitutional or Statutory subject-matter jurisdiction to act.

The State Court's routinely proceed for Barker violations:

- 1) Vera v. State 764 S2d 427 (2014) ϕ 2nd or 3rd Right
- 2) Wilson v. Kemp 707 S2d 336 (2011) ϕ 3rd Right
- 3) Sanders v. Holder 684 S2d 279 (2011) ϕ 3rd Right
- 4) Denson v. Frazier 672 S2d 625 (2011) ϕ 3rd Right
- 5) State v. Hendani 656 S2d 736 (2009) ϕ 3rd Right
- 6) Aasul v. Brandon 646 S2d 75 (2009) ϕ 3rd Right
- 7) Harris v. State 642 S2d 92 (2009) ϕ 3rd Right
- 8) Johnson v. Smith 626 S2d 470 (2006) ϕ 3rd Right
- 9) Green v. State 620 S2d 788 (2005) ϕ 2nd or 3rd Right
- 10) Braden v. State 620 S2d 369 (2005) ϕ 2nd or 3rd Right
- 11) Ford v. Bittie 591 S2d 802 (2004) ϕ Rights
- 12) Byrd v. Shaffer 523 S2d 895 (1999) ϕ 2nd or 3rd Right
- 13) Bowers v. Moore 471 S2d 681 (1996) ϕ 2nd or 3rd Right

For Petitioner, not only is his record silent on the advancement of his 3rd Barker Right [See Bears v. State, 731 S2d 681 (2011); Bowers, supra] the blatant implicit evasion of his US Constitutional Rights is self-evident.

The State Constitution's Art. I, Sec. 1, Para. 22 prohibits involuntary servitude except by "legal conviction".

Since Petitioner's Guilty Plea is Unconstitutional, structural errors exist which also mandate reversal.

10 July 1995 GUILTY PLEA CANNOT BE USED TO IMPOSE RECIDIVIST SENTENCE(S) ON PETITIONER

Under Georgia law, only a US Constitutionally valid guilty plea may be used to impose a recidivist sentence. [SEE OCGA 17-10-7]

Both the State Supreme Court and Court of Appeals mandate that only Constitutional guilty pleas [per Bookin] may be used to impose a recidivist sentence. SEE In the interest of S.M., a child, 745 SE2d 865 (2013); Foster v State, 738 SE2d 651 (2003); Bazemore v. State, 535 SE2d 760 (2000).

The Bazemore court held:

"The constitutional rights articulated in Bookin are implicated when a recidivist enters a plea of guilty". See also Sanders v Holder, 684 SE2d 239 (2002).

In Rahzer v. State the Court of Appeals noted in a recidivist case:

"Any defendant who pleads guilty will be able to secure a reversal of his conviction if the record does not show that he was specifically advised of each of the three Bookin rights and he properly presents the issue to a reviewing court".

SEE 794 SE2d 418 (2016) e. Turner, Supra.

UNCONSTITUTIONAL GUILTY PLEA IS
STRUCTURAL ERROR

Petitioner's Unconstitutional Guilty Plea of 10 July 1995 is
a structural error. See Weaver v. Massachusetts,
137 S.Ct. 1099 (2018); Arizona v. Fulminante, 111 S.Ct. 1241 (1991).

Under Class and its progeny, the Guarnett Trial Court
never had the jurisdiction to accept the [Unconstitutional]
guilty plea, nor convict and sentence under Bookin.
See also Domusuez Benitez, supra.

UNCONSTITUTIONAL GUILTY PLEA DIVESTED TRIAL
COURT OF CONSTITUTIONAL AND STATUTORY
SUBJECT-MATTER JURISDICTION

The subject-matter jurisdiction of a court is its power to act which is given by the law [Constitutional | Statutory]. See US v. Cotton, 122 S.Ct 1781 (2002); Steel Co. v. Citizens For Better Environment, 118 S.Ct 1003 (1993).

Objections to subject-matter jurisdiction may be raised at any time. See Henderson v. Shivers, 131 S.Ct 1197 (2010); Shedden v. Carter, 623 S.Ct 241 (2005).

In Posters v. Chapman this Court held that it has an independent obligation to ascertain whether subject-matter jurisdiction exists. See 136 S.Ct 1737 (2016); Mullane v. Widen, 95 S.Ct 188 (1978).

Petitioner avers that his 10 July 1995 Guilty Plea in the Suprem Court was, is, and remains Unconstitutional per Boerkin. See App. E, p. 5, lns 21-24.

Petitioner's US Constitutional Rights violations encompass the 5th, 8th, 9th and 14th Amendments [also Georgia reciprocal Constitutional paragraphs and OCGA] when the State Trial Court accepted an Unconstitutional Guilty Plea; imposed illegal, null and void sentences, when it had no subject-matter jurisdiction: almost 25 years of imprisonment and involuntary servitude.

SUBSTANTIVE AND PROCEDURAL DUE PROCESS

The State Constitution [Art I, Sec 1, Paras 1, 2] as well as the OCGA 15-1-2 and 17-10-13 protect Petitioners from the actions of the State Courts.

The Trial Court's statutory subject-matter jurisdiction is expressly limited by the OCGA 15-1-2.

Petitioners via an Unconstitutional Guilty Plea on 10 July 1995 could not agree to, confer, or waive the Trial Court's Constitutional and statutory subject-matter jurisdiction. See Humphrey v. State, 773 SE2d 760 (2018); Dix v. Dix, 64 SE 790 (1902).

Under Boyer, the failure of the Trial Court to ensure that Petitioners 3rd Boyer Right (privilege against compulsory self-incrimination) [See App E, p 5, 1521-24] conclusively proves that Petitioners' Guilty Plea was, is and remains Unconstitutional.

IMPLICIT EVASION OF SUBJECT-MATTER JURISDICTION

The Trial Court's denial [See App B.] is an outright evasion of the Boyer Right. Petitioners specifically set-up and asserted his Boyer Right, as well as subject-matter jurisdictional issues.

The Georgia Court of Appeals [See App. A] and the Georgia Supreme Court [See Apps C & D] both implicitly evaded the question of subject-matter jurisdiction. [A de novo review]. See MacBeth v. State, 686 SE2d 435 (2010); Goddard v. City of Albany, 684 SE2d 635 (2009); Cutts v. Sandlett, 34 SE 186 (1899); James v. Kentucky, 104 SCT 1830 (1984).

PETITIONER CANNOT ACQUIESCE TO UNCONSTITUTIONAL SENTENCE VIA A GUILTY PLEA

Georgia law expressly proscribes acquiescence to illegal sentences either through entry of a guilty plea, or failing to object at trial. See Phillip v. State, 721 SE2d 214 (2010); Bass v. State, 709 SE2d 767 (2011); Zippert v. State, 683 SE2d 865 (2009); Recheval v. U.S., 47 SCT 584 (1927).

Nor can Petitioner acquiesce to a general waiver of subject-matter jurisdiction. See Humphrey, supra; Wisconsin Dept. of Corrections v. Schacht, 118 SCT 2047.

STATE CANNOT CONVICT AND SENTENCE DUE TO UNCONSTITUTIONAL GUILTY PLEA

As this Court so recently held in Class:

"Arguments attacking a court's subject-matter jurisdiction can neither be waived nor forfeited" see Wisconsin DOC, supra

NO SUBJECT-MATTER JURISDICTION IS STRUCTURAL ERROR

Since the Guinnett Trial Court never had the requisite Constitutional or Statutory subject-matter jurisdiction to accept Petitioner's [Unconstitutional per Borkin] Guilty Plea; nor convict and sentence: Petitioner is being held on illegal, null and void sentences.

Structural errors mandate Automatic Reversal, especially for no subject-matter jurisdiction: A Constitutional mandate. See Weaver v. Massachusetts, 137 S.Ct. 1899 (2017); Chapman v. California, 37 S.Ct. 824 (1967); Also Class, supra.

Additionally, a void sentence is punishment prescribed by law. In von Thomas the State Supreme Court held:

"Whether a sentence amounts to 'punishment that the law does not allow' depends not upon the existence or validity of the factual or adjudicative predicates for the sentence, but whether the sentence imposed is one that legally follows from a finding of such factual or adjudicative predicates. For instance, a lawful sentence can be imposed only upon the adjudicative predicate of a lawful conviction." See 748 S.E2d 446 (2013).

For Petitioner, an Unconstitutional Guilty Plea is a void sentence, contrary to the US Constitution, Reciprocal State Constitutional Rights; involuntary sentence which commands reversal.

IMPLICIT EVASION OF US CONSTITUTIONAL RIGHTS

The history of this Court's decision over the last one hundred years is that once a defendant specifically sets-up and claims a US Constitutional Right in a state court; the state courts must respect and protect those rights. See Creswell v. Grand Lodge Knights of Pythias, 32 SCT 822 (1912); also Foster v. Chapman, 136 SCT 1737 (2015); Lee v. Rema, 122 SCT 877 (2012); Ford v. Georgia, 111 SCT 850 (1991); Fiske v. Kansas, 47 SCT 605 (1927)

Petitioner specifically set-up and claimed in the State Trial Court of:

- 1) his Unconstitutional Guilty Plea on 10 July 1995 per Dorbin [See App. E, p 5, no 1-24];
- 2) no subject matter jurisdiction to accept plea, convict or sentence due to Dorbin violation [A non-waivable Constitutional and Statutory mandates OCGA 15-1-2; 17-9-4; 17-10-13]
- 3) that his 64 years, since 50 year sentences are null and void; violate fundamental ~~rights~~ and due process of law per Dorbin;
- 4) that his Unconstitutional Guilty Plea per Dorbin commands Automatic Recusal due to the inherent structural errors;

5) that the Trial Court cannot implicitly evade his US Constitutional Rights.

Petitioner, from his Motion to the Trial Court, to the Georgia Court of Appeals (direct), and to the Georgia Supreme Court (certiorari) specifically set-up, claimed, and incorporated both the US Constitutional standards of Review, as well as Georgia Constitutional provisions and statutes [OCGA].

His 5th, 9th, 9th and 14th Amendment Rights (including State Reciprocity) as well as substantive and procedural due process rights of Georgia were clearly identified and indicated. See Woods v. Alabama, 55 SCT 294 (1938).

The Supremacy Clause demanded that Georgia courts protect and enforce Petitioner's US Constitutional Rights [See Sims v. Georgia, 87 SCT 659 (1967); US v. Georgia Public Service Commission, 83 SCT 397 (1963)]; yet to date no Georgia court will do so.

Georgia's Appellate courts routinely accept unconstitutional guilty pleas, a "strict constitutional requirement" under automatic removal if any deviation is found in Boykin Rights advisement. See Rahmon v. State, 784 SE2d 418 (2016); Tynes v. State, 711 SE2d 577 (2011); Wilson v. Kemp, 707 SE2d 336 (2011); Goodman v. Davis, 287 SE2d 20 (1982).

Since Petitioner cannot acquiesce to an illegal sentence [See Burch v. State, 806 SE2d 863 (2017)]; nor can he waive his rights by entry of an Unconstitutional Guilty Plea [See Baro v. State, 709 SE2d 767 (2011); Zipper v. State, 683 SE2d 865 (2009)]; the State Court should have held his 10 July 1995 Guilty Plea unconstitutional.

Petitioner's 5th, 8th, 9th and 14th Amendment Rights, as well as his State substantive and procedural due process Constitutional and Statutory Rights were thwarted via implicit evasion and springing. See Lee, supra; Wright v. Georgia, 83 SCT 1240 (1963).

Petitioner has no recourse to protect and enforce his US Constitutional Rights except through this Court, and the Supremacy Clause and mandates. See Public Utilities Commission of California v. U.S., 78 SCT 446 (1958).

MISCARRIAGE OF JUSTICE

The miscarriage of justice inherent to Petitioner is in that he has been incarcerated since 5 September 1994 on illegal, null, and void sentences due to an Unconstitutional Guilty Plea with convictions and sentences [64 years, some 50 years] imposed by a State Trial Court which never had the requisite Constitutional or Statutory subject-matter jurisdiction to act.

Whether this Court uses its "Miscarriage of Justice" standards [See Foster v. Chapman, 136 S Ct 1737 (2015); O'Dell v. Thompson, 112 S Ct 618 (1991)] or its "shock the conscience" of Rosales-Mirales v. US 138 S Ct 1897 (2018)]; it is inconceivable to Petitioner that it will not grant certiorari.

This Court's "look through" of Petitioner's case and plight is to find a pro se, incarcerated Petitioner who could "smell" something was Unconstitutional, yet elusive, who relied on the State of Georgia to protect his Constitutional Rights. See Wilson v. Sellars, 138 S Ct 1108 (2018).

Petitioner's 10 July 1995 Unconstitutional Guilty Plea's accepted by a Trial Court without subject-matter jurisdiction is a violation of his 5th, 8th, 9th and 14th Amendment Rights in that he has been placed under colour of Georgia law to 50 years of

involuntary servitude contrary to the US and State Constitutions.

The Georgia Constitution Art. 1, Sec 1, Para. 22 reads:

"There shall be no involuntary servitude within the State of Georgia except as punishment for crime after legal conviction thereof, or contempt of court."

Petitioner's Unconstitutional Guilty Plea and subsequent illegal, null and void convictions and sentences [by a State Trial Court without any subject-matter jurisdiction] is involuntary servitude.

Petitioner's convictions and sentences are violations of fundamental fairness and due process of law. See McDonald v. City of Chicago, 130 S Ct 3020 (2010); Nazario v State, 746 SE2d 109 (2013).

Illegal sentences do not "comport with fundamental fairness and due process of law". See Tolbert v. Toole, 767 SE2d 24 (2014); also Zamudio v. State, 771 SE2d 733 (2015); Dixon v State, 808 SE2d 666 (2017); Daniel v. State, A17A2079 (2016).

The miscarriage of justice in Petitioner's case not only "shocks the conscience" which requires reversal, the Constitutional violations rise and exceed the mandates and thresholds for gross structural errors. See Weaver v. Massachusetts, 137 S.Ct. 1899 (2017); US v. Gonzalez-Lopez, 126 S.Ct. 2557 (2006); Arizona v. Edmunds, 111 S.Ct. 1241 (1991); Murray v. Carrier, 106 S.Ct. 2639 (1986)

The Georgia Supreme Court has held that:

"A sentence is void if the court imposes punishment the law does not allow. Whether a sentence amounts to 'punishment that the law does not allow' depends not upon the existence or validity of the factual or adjudicative predicates for the sentence, but whether the sentence imposed is one that legally follows from a finding of such factual or adjudicative predicates. For instance, a lawful sentence can be imposed only upon the adjudicative predicate of a lawful conviction." See von Thoms v. State, 748 SE2d 446 (2013); Rooney v. State, 690 SE2d 840 (2010); Nazario, supra.

In the instant case Petitioner's Unconstitutional 10 July 1995 Guilty Plea and the resultant (albeit) quarter century of involuntary servitude under illegal, null and void sentences is a miscarriage of justice that "shocks the conscience" and the US Constitution. See Beard v. Kentucky, 130 S.Ct. 612 (2008); New Jersey Thoroughbred Assoc. Inc. v. NCAA, 138 S.Ct. 1461 (2018)

CONCLUSION

Petitioner has been incarcerated almost 25 years [since 5 Sept 1994] from an Unconstitutional Guilty Plea accepted by a State Trial Court which never had Constitutional or Statutory subject-matter jurisdiction to impose convictions and sentences due to the inherent Boekin violation.

Fundamental fairness and due process of law expressly prohibit Petitioner's involuntary servitude under an Unconstitutional Guilty Plea.

The implicit evasion of Petitioner's US Constitutional Rights by the Georgia courts is irreparable.

The inherent structural errors and resulting miscarriage of justice command that this Court grant certiorari; VACATE and REMAND per Boekin; and grant any and all relief it deems necessary.

First justice, next column.