

No. 23-7412

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN ROONEY - PETITIONER

vs.

STATE OF GEORGIA - RESPONDENT
ON PETITION TO A WRIT OF CERTIORARI TO
SUPREME COURT OF GEORGIA
PETITION FOR A WRIT OF CERTIORARI

FILED

APR 10 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.
ORIGINAL

JOHN ROONEY

#31938

Washington State Prison

POB 206

DAVISBORO, CA 91618

QUESTION PRESENTED

- 1) Does Georgia's "totality of the circumstances" not requiring a Criminal Defendant in a guilty plea to be specifically advised of their privilege against compulsory self-incrimination violate Boykin v. Alabama's 5th Amendment Right?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

523A840 Supreme Court of Georgia - Unpublished

A23A1483 Court of Appeals of Georgia - Unpublished

94-D-2823-Y Superior Court Gwinnett County, GA - Unpublished

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		PPS 9/10/11
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TABLE OF AUTHORITIES CITED (continued)

Bazemore v. State

535 SE2d 761

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Goodman v. State

287 SE2d 26

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Green v. State

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Hejeme v. McLoughlin

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Tynes v. State

714 SE2d 577

(2011)

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OPINIONS BELOW

STATE COURTS

The opinion of the highest state court to review the merits appears at Appendix ~~E~~ to the petition and is unpublished.

The opinion of the Court of Appeals appears at ~~E~~ A-1, A2 and is unpublished.

The opinion of the trial court appears at Appendix B.

JURISDICTION

[X] For CASCO From State Courts:

The date on which the highest state court decided my case was 6 February 2024.

A copy of that decision appears at Appendix A.

[X] A timely petition for rehearing was thereafter denied on the following date: 5 March 2024, and a copy of the order denying rehearing appears at Appendix B.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution

Article 6, Clause 2

Amendment 5 [privilege against compulsory self-incrimination]

Amendment 9 [Substantive Rights]

Amendment 14 [due process & equal protection]

STATEMENT OF THE CASE

This petition arises from Petitioner's unconstitutional guilty plea on 10 July 1995 in the Superior Court of Gwinnett County, Georgia.

Petitioner was never specifically advised of his privilege against compulsory self-incrimination as mandated in Boyer v. Alabama, 89 S.Ct. 1709 (1969).

To date no Georgia court has/will ascertain that his 5th Amendment privilege was violated; resulting in no subject matter jurisdiction and sentences void ab initio.

REASONS FOR GRANTING THE PETITION

Over 55 years ago in Boykin v. Alabama this Court mandated that for a criminal defendant's Guilty Plea to be Constitutional the defendant must specifically be advised of the following on the record:

- 1) the right to a jury trial
- 2) the right to confront one's accusers
- 3) the privilege against compulsory self-incrimination

See 89 SCT 1709 (1966)

The Brady Court found that the specific advisement of these 3 rights [per Boykin] ensure that the Guilty Plea is voluntary, knowing, and intelligent. See 90 SCT 1463 (1970); and Bejani v. McLaughlin, 746 SE2d 803 (2014).

Petitioner avers that his 10 July 1995 Guilty Plea in the Superior Court of Gwinnett County, Georgia is void ab initio due to its Unconstitutionality in that he was never advised of his 5th Amendment privilege against compulsory self-incrimination.

The 10 July 1995 Guilty Plea transcript p. 5, lns 21-23 reads:

p. 5 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 \$0.00"

ln 23: "trial by jury."

See Exhibit A, pg 5, lns 21-23.

To date every State Court has implicitly evaded this
Constitutional issue and whether the Georgia Court
had subject matter jurisdiction to accept this [Unconsti-
tutional] Guilty Plea nor sentence.

Georgia's Supreme Court in Green v. State,
523A0840 (2024) holds guilty pleas to be
Constitutional under Boykin under "... if the record
as a whole shows that the defendant's plea was
voluntary and intelligent". Also see Goodman v.
State, 287 S2d 26 (1982).

Georgia's "totality of the circumstances" holding negates
Boykin and its progeny.

In Tyne v. State, that court commenced "automatic
review" if all 3 Boykin Rights are not specifically
advised and in the record. See 714 S2d 577 (2011);
Darremore v. State, 585 S2d 761 (2000);

Petitioner avers that the Tynes, supra, decision is the Constitutional standard under Boykin; not Green, supra nor Goodman, supra.

The Mikell court held that Georgia's Constitutional paragraph protections against compulsory self-incrimination exceed those of the 5th Amendment. See CV-409-171, SDGA (2010).

The Green and Goodman decisions abrogate Boykin and its progeny, contrary to Art. 6, Cl. 2. See VA Uranium Inc. v. Waxach, 139 Sct 1894 (2019).

Boykin commands all 3 Constitutional Rights be specifically advised for a guilty plea to pass Constitutional scrutiny and analysis.

This command is enunciated in Packer v. Raley, 113 Sct 517 (1992), to US v Ruiz, 122 Sct 2450 (2002); to Class v US, 138 Sct 798 (2018).

Georgia's "guilty plea standard" denies Boykin, Johnson v Ohio, 95 Sct 200 (1976); and Schnecko v. Bortomonte, 93 Sct 2041 (1973).

This standard does not protect Petitioner's Fundamental Constitutional Right. See Cooper v Oklahoma, 116 Sct 1873 (1996).

Georgias GREEN and Goodman decisions invalidate
Barkin and Petitioner's US Constitutional Rights.

The Green holding would permit law enforcement to not advise "arrested" individuals of their "right to remain silent" as long as the remainder of Miranda is provided and the "totality of the circumstances" shows they knew they were arrested.

Petitioner's 10 July 1995 Guilty Plea was void, and remain Unconstitutional, no 5th Amendment pre-arrest
advisement, void ab initio, and imposed by a court
whose subject matter jurisdiction was absent.

Implicitly evaded Constitutional Rights are a miscarriage
of justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
John R. [Signature]

Date: 10 April 2024