

NO 23-7412

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN ROONEY - PETITIONER

VS

STATE OF GEORGIA - RESPONDENT

ON MOTION FOR RECONSIDERATION
TO THE SUPREME COURT OF GEORGIA

JOHN ROONEY

31938

Washington State Prison

POB 206

Danville GA

31018

CERTIFICATION OF INTERVIEWING CIRCUMSTANCES
OF SUBSTANTIAL / CONTROLLING EFFECT AND/OR
OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY
PRESENTED

I certify that the following Ground is of substantial/
controlling effect or other substantial ground not previously
presented of Constitutional significance.

Executed under penalty of perjury this 24 November 2024

John R.
John Rooney

STATEMENT OF ADDITIONAL GROUNDS

Petitioner was never advised of his USCR 3308

(d)(3): maximum sentences nor his USCR 3308

(d)(4): minimum sentences [not a mandate per

GREEN v. State, (523A0840) 2024.

The Green Court did not establish a Bright Line Rule.

Petitioner could not have received a Constitutionally

empanelled Trial Jury as the July 1995 Trial

Jury Certificate and Pool excluded officers, contrary

to Ross v. White, 99 S.Ct. 2993 (1979); Williams v.

State, 510 A.2d 558 (2010); Jones v. Georgia, 88 S.Ct. 4 (1967)

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED

US Constitution:

Article 6, Clause 2

Amendment 5

Amendment 6

Amendment 9

Amendment 14

FR Criminal Procedure Rule 11

Rule 32

Uniform Superior Court Rule 33.08 [State of Georgia]

JURISDICTION

Rule 29.1

Rule 44

TABLE OF AUTHORITIES CITED

			<u>Page(s)</u>
Bowling v. Alabama	89 SCT 1709	(1965)	3,4
Jones v. Georgia	88 SCT 4	(1967)	3,5
Parke v. Raley	110 SCT 517	(1992)	3
Ross v. White	99 SCT 2990	(1979)	5
<u>GEORGIA:</u>			
Bonnyhall v. State	291 S2d 685	(1982)	5
Green v. State	520 A0840	(2024)	3,4
Williams v. State	510 A0558	(2010)	5

REASONS FOR GRANTING REHEARING

Georgia's GREEN Ruling [totality of the circumstances] negated Boykin v. Alabama, 395 CT 1709 (1969). See 523A0840 (2024)

There are no progeny of Boykin that state any of the three Constitutional Rights are "optional". See PARKE v. ROLEY, 113 SCT 517 (1992).

In essence, GREEN permits a State Court to determine when (in its opinion) a guilty plea is Constitutional, even in the absence of the Boykin Rights.

There is no Bright line Rule: Georgia's USCR 33.8 and Boykin are "optional".

Federal Courts have mandates under Boykin and FR Criminal Procedure Rules 11 and 32; not so Georgia. See GREEN, supra.

Without a Bright line Rule in Georgia; totality of the circumstances is arbitrary, capricious, and open to a "case by case" bias and prejudice as to what constitutes a "Constitutional" Guilty Plea under GREEN; not Boykin.

Petitioner was never advised of his third Boyle Right [See Exhibit 1, pg 5, lns 21-23].

Now was he advised of his USCR 33.8 Rights:

- 1) USCR 33.8 (D)(3) maximum sentences
10 to 20 years, life or 1 to 20 years
- 2) USCR 33.8 (D)(4) minimum sentences
1 day to 12 months; 1 year to 20 years

Petitioner notes that it is not only a Boyle violation; it is cruel and unusual punishment to grant a State trial court [without Constitutional, Statutory, or Procedural Rules]; no Boyle mandate, no Double Jeopardy Rule to impose sentences on an Unconstitutional Guilty Plea.

It is manifest that Green negates Boyle in its entirety: Constitutional and structured even by the Georgia Supreme Court.

Petitioner and all Georgia Guilty Plea Defendants have Unconstitutional Guilty Pleas under Boyle.

The July 1995 Trial Jury Certificate of Guilt of Gwinnett County excluded others contrary to the US Constitution's 6th and 14th Amendments. See Rose v. Wright, 99 SCT 2993 (1979); Song v. Georgia, 88 SCT 4 (1967); Bonyell v. State, 291 SE2d 685 (1982).

Petitioner was advised of his right to a jury trial yet that right did not exist until on/after January 2011 as Gwinnett County did not allow its Jury Pools until after that date. See Williams v. State, 8800582 (2010)

Petitioner therefore was missing two US Constitutional Duym Rights:

- 1) his privilege against compulsory self-incrimination
- 2) his right to a jury trial (reflective of the Gwinnett County population)

Without these two Duym Rights; his 5th and 6th Constitutional Rights were violated; mandating Reversal due to an unknowing, unintelligent, and involuntary guilty plea.

CONCLUSION

Boyer's Rights ARE still a Constitutional command and mandate.

The inescapable fact that Petitioner's 2nd Boyer's Right (Right to a trial by jury) did not exist on 10 July 1995 is a violation of Boyer's 6th Amendment command.

The complete absence of Petitioner's 3rd Boyer's Right (privilege against compulsion self-incrimination) violates Boyer's 5th Amendment command.

The failure of the Trial Court to advise Petitioner of the maximum and minimum sentences exacted to his Guilty Plea being knowing, intelligent, and involuntary under the "totality of the circumstances".

His sentences are void ab initio under Boyer's and the Constitution.

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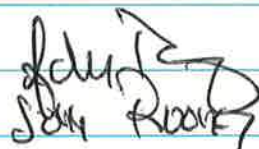
PROOF OF SERVICE

I John Rooney, do swear/declare that on this date, 24 November 2024, as required by Supreme Court Rule 29.1 I have served the enclosed MOTION FOR RECONSIDERATION on each party to the above proceeding or that party's counsel, and any other persons required to be served by depositing an envelope containing the above document(s) in the United States mail properly addressed to each of them and with first-class postage for delivery within 3 calendar days.

The name(s)/address(es) is/are follows: Attorney General of Georgia
40 Capitol Sq SW
Atlanta, GA 30334

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 24 November, 2024


John Rooney