

SUPREME COURT OF LOUISIANA

No. 2016-KP-2083

STATE OF LOUISIANA

VERSUS

DARYL TRAHAN

**ON WRIT OF CERTIORARI TO COURT OF APPEAL,
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE**

CRICHTON, J., additionally concurs and assigns reasons.

In 2007, Relator entered pleas of guilty to attempted second-degree murder and two counts of false imprisonment with a dangerous weapon. The trial court failed to inform or question Relator concerning his understanding that his pleas involved the waiver of his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront and cross-examine his accusers. *See Boykin v. Alabama*, 395 U.S. 238, 243 (1969) and La. C.Cr.P. art. 556.1. The trial court ordered a PSI, and defendant was later sentenced to 35 years at hard labor “without benefits” consecutively with two concurrent terms of 5 years at hard labor.

In an evidentiary hearing on collateral review, the trial judge acknowledged the lack of a *Boykin* colloquy, but denied the application, concluding it to be meritless in light of testimony of the attorney representing Relator during the guilty plea that, although she could not specifically recall what transpired in this case, she “routinely advised” her clients of their constitutional rights prior to a guilty plea. The court of appeal correctly granted Relator’s writ application, vacated the convictions and sentences, and remanded for further proceedings. While it is laudable that defense counsel routinely, and perhaps even fastidiously, advises her clients of

applicable constitutional rights, it was not her duty to conduct a *Boykin* examination. Rather, it was the duty of the trial judge.

I therefore write separately to spotlight the importance of compliance with *Boykin* and C.Cr.P. art. 556.1, as well as the overarching obligation of the district attorney and defense counsel, as officers of the court, to perfect the record for purposes of direct appeal and the post-conviction process. In my view, this shocking and fundamental deficiency warrants the serious consequences of vacating a felony conviction and sentence – even a decade later – in this case.