

**SUPREME COURT OF LOUISIANA**

**NO. 2000-K-2934**

**STATE OF LOUISIANA**

**VS.**

**LANDOUR BOUIE**

**WEIMER, J.**, dissenting.

Recognizing that the matter considered presents a close call and the majority opinion is very persuasive, I respectfully dissent for the following reasons.

On the day scheduled for trial and following a plea negotiation conference, the defendant appeared before the court, waived his right to a jury trial and entered a guilty plea. Apparently, at some point during the plea negotiations, the trial judge participated in discussions with the defendant, his counsel, and the district attorney at which time it was strongly suggested that a plea was in defendant’s best interest. During this time, the trial judge advised the defendant regarding the success rate of the district attorney’s office along with the fact that during the judge’s career he had only witnessed a few acquittals. Defendant was apprised of the sentence which could be imposed under both circumstances--if he pled guilty or if he proceeded to trial and was found guilty. Both sentencing caps hinged upon whether or not the district attorney’s office would file a multiple offender bill following conviction.

Admittedly, the statements made by the trial court, if taken out of context, could be construed as going beyond what should have been stated. However, in the context of the entire proceeding, I do not believe the statements were sufficient to coerce the defendant or unreasonably persuade him to plead guilty. It has not been alleged that anything the trial court stated was inaccurate.

Following the colloquy with the trial court, the proceedings were suspended during which time the defendant had an opportunity to confer with counsel privately. Other matters were handled by the court during that time frame.

Thereafter, during the time the **Boykin**<sup>1</sup> examination was conducted, the trial court repeatedly stated it could not predict what the jury would do in defendant's case. It should be noted that defendant's admitted behavior in the events surrounding the shooting subjected him to a risk of conviction. This risk of conviction was amplified when the statement of his co-defendant, which implicated the defendant, was considered. Consequently, the state had a strong case against the defendant.

It is also important to note that this was a "best interest" plea as sanctioned by **North Carolina v. Alford**, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

The trial court must be ever mindful to refrain from injecting itself too deeply into the plea agreement such that the defendant perceives he is being coerced or persuaded to plead guilty by the court. It is not the court's role to decide what is in the defendant's best interest. The court must maintain its role as an independent and impartial magistrate. Certainly, the trial court can and must inform the defendant of the consequences of his plea. However, in doing so, the court must avoid the impression of coercing or persuading the defendant to plead guilty. Despite the defendant's allegations, I believe the court succeeded in avoiding that impression.

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<sup>1</sup> **Boykin v. Alabama**, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).