

**SECOND DIVISION
ANDREWS, P. J.,
MCFADDEN and RAY, JJ.**

**NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
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<http://www.gaappeals.us/rules/>**

September 29, 2014

In the Court of Appeals of Georgia

A14A1269. VERA v. THE STATE.

ANDREWS, Presiding Judge.

Pursuant to the grant of an out-of-time appeal, Hector Vera appeals from the judgment of conviction entered after he pled guilty in 2004 to one count of misdemeanor family violence battery and three counts of misdemeanor second degree cruelty to children.¹ His sole enumeration of error is that the guilty plea is invalid because he was not advised of his rights under *Boykin v. Alabama*, 395 U. S. 238 (89 SCt 1709, 23 LE2d 274) (1969). The trial court record shows, and the State concedes, that Vera was not advised of his *Boykin* rights to confront witnesses and the privilege against self-incrimination. Because the record shows that Vera was not advised of and

¹ The misdemeanor offense of second degree cruelty to children with which Vera was charged in 2004 has since been re-defined as misdemeanor third degree cruelty to children in OCGA § 16-5-70 (d).

did not knowingly waive these *Boykin* rights, his guilty plea is invalid and his conviction must be reversed and the case remanded to the trial court for further proceedings. *Tyner v. State*, 289 Ga. 592, 595 (714 SE2d 577) (2011).

Judgment reversed and case remanded. McFadden and Ray, JJ., concur.