



MINNESOTA JUDICIAL TRAINING UPDATE



ALFORD (Defendant Denies Guilt) PLEA OF GUILTY

QUESTION: What Is An 'Alford' Plea Of Guilty? What Procedure Must The District Court Follow Before An Alford Plea Can Be Accepted?

ALFORD PLEA OF GUILTY: In *North Carolina v. Alford*, the United States Supreme Court held that it was constitutional for a court to accept a defendant's guilty plea, even though the defendant maintained his innocence, where the State demonstrated "a strong factual basis for the plea" and the defendant clearly expressed his desire to enter the plea based on his belief that the State's evidence would be sufficient to convict him. 400 U.S. 25, 91 S.Ct. 160 (1970); *State v. Theis*, 742 N.W.2d 643 (Minn. 2007).

MINNESOTA SUPREME COURT CAUTION: In adopting the *Alford* plea procedure the Minnesota Supreme Court cautioned that:

"the court should not "cavalierly accept" an *Alford* plea, that such pleas should only be accepted if they are "voluntary and represent...a knowing and intelligent choice of the alternative courses of action available," and that the factual basis inquiry is "essential to the determination of this issue." *State v. Goulette*, 258 N.W.2d 758 (Minn. 1977). *Theis*, 742 N.W.2d at 647.

A VALID ALFORD PLEA REQUIRES THREE BASIC STEPS

- 1) **STEP ONE:** The record should explicitly indicate that defendant is entering an Alford plea and that defendant understands what an Alford Plea is;
- 2) **STEP TWO:** Defendant should be asked the following 4 questions (by the court or attorneys):
 - a) Have you read the complaint, police reports and other documents in the prosecutors file?

b) Do you understand that if you went to trial the state's witnesses would testify that the following occurred: _____:

- i. Prosecutor summarizes the state's case, including specific Statements from the police reports; (See **Supreme Court Tip on Best Practice:** below)

c) Do you believe that the evidence the State would likely offer against you at trial is sufficient for a jury, applying a reasonable doubt standard, to find you guilty of the offense of: _____? (language approved in *Theis*, id at 649.)

- i. **Substantial likelihood:** Defendant acknowledging there was a "substantial likelihood" that the jury could and probably would convict him, was upheld on appeal. *State v. Behrens*, Minn.App. 9-15-14, #A13-2014.
- ii. **Warning:** Conviction reversed when defendant only acknowledged the risk that he could be convicted if the matter proceeded to trial. *State v. Theis*, 742 N.W.2d 643 (Minn. 2007).

d) Are you entering this plea to obtain the benefit of the plea bargain being offered by the prosecutor?

3) **STEP THREE:** The District Court should enter the following finding:

Based upon the facts offered in support of the plea, the court finds there is sufficient evidence to support a jury verdict of guilty and that the plea is voluntarily, knowingly, and intelligently entered. *State v. Theis*, 742 N.W.2d 643 at 647.

Supreme Court Tip on Best Practice: Although the above procedure in Step Two (summary by prosecutor) for establishing the factual basis has been upheld as sufficient, the Supreme Court has noted:

"A better practice would be the introduction, by the prosecutor, of statements of witnesses or other items from his file which would aid the court in its determination. In appropriate cases, the prosecutor might even consider calling some of the state's witnesses for the purpose of giving a shortened version of what their testimony would be were the case to go to trial." *Goulette*, 258 N.W.2d at 761; *Theis*, 742 N.W.2d 643 at 647.

RESOURCES: Cases cited above and the Hon. Charles Glasrud, Stevens County Courthouse, Morris, Mn.
Hon. Alan F. Pendleton, Anoka County District Court, Anoka, Mn 55303; 763-422-7309