

DECEMBER 31, 2015

**CASE LAW UPDATE**

**Minnesota Supreme Court upholds exclusion of evidence of *Alford* plea from subsequent civil trial.**

The Minnesota Supreme Court held this week in [Doe v. Liebsch](#) that evidence of an *Alford* plea was properly excluded under [Minn. R. Evid. 403](#) in a subsequent civil trial based on the same course of conduct as the criminal matter.

When a criminal defendant enters an *Alford* plea, approved by the supreme court in [State v. Goulette, 258 N.W.2d 758, 760 \(Minn. 1977\)](#), he or she maintains a claim that he is innocent while admitting there is evidence which would support a jury verdict of guilt. The defendant in *Doe* previously entered an *Alford* plea to fifth-degree criminal sexual misconduct. In a subsequent civil case, the plaintiff and alleged victim of the misconduct sought to introduce evidence of the *Alford* plea, but the district court excluded it under Rule 403. When the defendant later testified that he had always denied the alleged misconduct, the plaintiff argued that his testimony “opened the door” and allowed for the introduction of the *Alford* plea. The district court disagreed.

Rule 403 allows a court to exclude evidence “if its probative value is substantially outweighed by the danger of unfair prejudice . . . .” The district court determined that evidence of the *Alford* plea contained little, if any probative value, because the defendant may have had several reasons for pleading guilty while maintaining his innocence and admitted only that a jury might find him guilty. The district court also noted that the plaintiff had the opportunity to present testimony regarding the facts surrounding the defendant’s alleged conduct.

The district court also determined that the danger of unfair prejudice was high because the plea had the capacity to “persuade by illegitimate means.” The district court observed that a jury would likely fail to understand the difference between an *Alford* plea and a conventional guilty plea. The district court found that the balance of these factors warranted exclusion of the evidence. In response to the plaintiff’s argument that the defendant opened the door to impeachment evidence, the district court found that the defendant’s testimony was consistent with the *Alford* plea.

The court of appeals and supreme court both upheld the district court’s exclusion of the evidence as a proper exercise of its “broad discretion to determine whether to admit evidence under Rule 403.”

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The supreme court began by noting the absence of any case law nationwide in which a party sought admission of an *Alford* plea in a subsequent civil trial based on the same course of conduct as the criminal matter. It also noted that it is common practice to admit evidence of a traditional guilty plea in a subsequent civil case. Finally, the supreme court noted that evidence of a guilty plea is not exempt from Rule 403's balancing test.

The supreme court then held that, in light of the district court's findings that the *Alford* plea contained "little if any probative value" and that there was a significant risk that the jury would be confused and the defendant would be prejudiced if the plea was admitted, it could not say that the district court abused its discretion by declining to admit the *Alford* plea under Rule 403. The supreme court similarly held that the district court acted within its discretion under Rule 403 when it also declined to allow the defendant's *Alford* plea to be admitted for impeachment purposes.

Justice Lillehaug dissented, stating that the district court abused its broad discretion by mischaracterizing the legal effect and probative value of the defendant's guilty plea and greatly exaggerating the purported danger of prejudice, confusion, or misleading effect.

If you have any questions regarding the recent Minnesota Supreme Court decision or any other evidentiary issues, please contact a member of our Liability Practice Group at (952) 831-6544. This letter and other court opinion updates are available in .pdf form on the News and Resources page of our Firm's website: [www.olwklaw.com](http://www.olwklaw.com).

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