

Alford Stops Estoppel

By: Wayne C. Fricke; July 2004

Wayne Baines was initially charged in Pierce County with one count of first degree rape with a firearm enhancement based on allegations that he had raped an allegedly blind woman who was under his care. After extensive investigation and negotiations, including the interview of the woman, as well as witnesses who knew both of the individuals, the Pierce County Prosecuting Attorney's office reduced the charges to two counts of assault in the fourth degree with sexual motivation and recommended one day in jail. This was a dramatic reduction from the potential of a first degree rape conviction with a potential sentence of between ten and fifteen years (including the firearm enhancement).

Immediately upon entry of the plea the attorney for the alleged victim served Mr. Baines with a civil suit alleging the same allegations that were the basis for the criminal case. Mr. Baines counterclaimed for malicious prosecution which was dismissed in the summary judgment motion by the trial court. The court indicated that the Alford plea (wherein the defendant maintains his innocence during the guilty plea) defeated the first element of the malicious prosecution claim, which is that the plaintiff's complaint not be supported by probable cause. See Hanson v. Estell, 95 Wn.App. 642, 647-48, 976 P.2d 179 (1999).

After the Court of Appeals affirmed in a two to one decision, the Supreme Court reversed. See Clark v. Baines, 150 Wn.2d 905, 84 P.2d 245 (2004). Initially, Mr. Baines' plea in this matter is not conclusive. Relying on previously decided cases that have addressed the issue in different contexts, the court noted that the doctrine of collateral estoppel simply does not apply to Alford pleas (most of the other cases involve insurance coverage issues).

While the court again stated that a criminal conviction after a trial may, under certain circumstances, be given preclusive effect in a subsequent civil action, essential to the underlying rationale of such a result is that a criminal trial provides a defendant a full and fair opportunity to develop and litigate the issues in the criminal case. See e.g., Kyreacos v. Smith, 89 Wn.App. 922, 927-28, 615 P.2d 1316 (1980). The same cannot be said, however, where a criminal conviction results from an Alford plea. Falkner v. Foshaug, 108 Wn.App. 113, 122-23, 29 P.3d 771 (2001); N.Y. Underwriters Ins. Co., v. Doty, 58 Wn.App. 546, 550, 794 P.2d 521 (1990) (citing Safeco Ins. Co. of Am. v. McGrath, 42 Wn.App. 58, 62-64, 708 P.2d 657 (1985), review denied, 105 Wn.2d 1004 (1986)).

Because the trial court's ruling was based entirely on the entry of the Alford plea, the Supreme Court reversed the summary judgment and held that a defendant under circumstances where he denies guilt while entering into a plea of guilty, may still counterclaim for malicious prosecution.

End

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