

ALFORD PLEA

The United States Supreme Court has held that a trial court's acceptance of a guilty plea supported by a strong factual basis is not error, even in the face of the defendant's proclamation of innocence; however, the states are free to prohibit their courts from accepting a guilty plea where a defendant maintains his innocence. *North Carolina v. Alford*, 400 U.S. 25, 38 n. 11, 91 S.Ct. 160, 168 n. 11, 27 L.Ed.2d 162, 172 n. 11 (1970). Consistent with the language in *Alford*, we noted that under Illinois case law a trial court may, but is not required to, accept a guilty plea from a defendant that maintains his innocence. A trial court has discretion to vacate its acceptance of a defendant's guilty plea if the defendant proclaims his innocence during the course of the guilty plea hearing.

People v. Cabrera, 402 Ill. App. 3d 440, 444, 932 N.E.2d 528, 534 (2010)

The problem with the defendant's reasoning is that an "Alford plea", despite some courts referring to it as a nolo contendere plea, is, in fact, a GUILTY plea and is recognized as such by our supreme court in *People v. Barker*, 83 Ill.2d 319, 332, 47 Ill.Dec. 399, 415 N.E.2d 404 (1980). See also, *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970). In an "Alford plea" a defendant pleads guilty yet continues to proclaim his innocence. On the other hand, a plea of nolo contendere is more in the nature of a demurrer, in that the defendant admits only the alleged facts, making it more akin to a stipulated bench trial than an actual guilty plea. In any event, the case law clearly supports the proposition that Alford pleas are permissible in Illinois courts.

People v. Church, 334 Ill. App. 3d 607, 614, 778 N.E.2d 251, 256 (2002)

In *Barker*, our supreme court held that a judge may accept an "Alford plea" as a plea of guilty and enter a judgment of conviction on the plea, provided the record reflects a factual basis from which a trier of fact could find the defendant guilty. *Barker*, 83 Ill.2d at 332, 47 Ill.Dec. 399, 415 N.E.2d 404. Following *Barker*, we find in the instant matter that the "Alford plea" was nothing more than a plea of guilty and the record reflected a factual basis from which a trier of fact could find the defendant guilty. While it would be more efficient were trial courts to point out to a defendant and his or her counsel that an "Alford plea" is, in fact, a plea of guilty, so long as the record reflects a factual basis for a plea of guilty, the conviction upon which the plea is based will be affirmed.

People v. Church, 334 Ill. App. 3d 607, 614–15, 778 N.E.2d 251, 256 (2002)