

**IN THE COURT OF APPEALS OF IOWA**

No. 8-936 / 08-0684  
Filed December 17, 2008

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**CHRISTOPHER JAMES FARIS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Winneshiek County, Margaret L. Lingreen, Judge.

Defendant appeals his conviction for carrying weapons entered after his *Alford* guilty plea. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney General, and Andrew Vandermaaten, County Attorney, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

**EISENHAUER, J.**

On December 31, 2007, Christopher Faris was charged with carrying weapons and third-degree harassment. On January 8, 2008, a trial information was filed charging Faris with carrying weapons. On February 5, 2008, pursuant to a plea agreement in which Faris would receive a suspended two-year sentence, Faris entered an *Alford* plea to carrying weapons. See *North Carolina v. Alford*, 400 U.S. 25, 32-38, 91 S. Ct. 160, 164-68, 27 L. Ed. 2d 162, 168-72 (1970) (holding sentencing allowed where accused is unwilling to admit guilt but is willing to waive trial and accept sentence).

Faris's written plea admits the State could prove he "went armed with a knife concealed on or about my person and said knife was used in commission of the crime of harassment." The sentencing court entered judgment, ordered a suspended two-year sentence, and dismissed a related simple misdemeanor charge of harassment. On April 1, 2008, Faris filed a pro se letter of appeal.

Based on the police reports, the witness statements, and the minutes of testimony, the following occurred. Faris lived above the Hillary Clinton campaign headquarters in Decorah and frequently visited the office. His visits became more bothersome as the campaign continued. On December 31, when the office was staffed by Arneson and Neibauer, Faris made his third visit of the day. Faris approached Arneson's desk in the front room and, within minutes, showed her the knife he was carrying in his jacket. When Neibauer heard Faris in the office again, he moved to the front of the office and "made sure to join the two of them to make sure that everything was alright." After Neibauer arrived, Faris removed

the knife from its holster to show him. Neibauer told Faris it was not a good idea to have a knife, especially in public. Faris responded he needed the knife for protection on this “crazy night” and also “spoke to an uncomfortable degree about his plans to stab anyone who looked at him or talked to him the wrong way.” The campaign workers were alarmed and concerned by Faris’s actions in displaying/brandishing the knife and told Faris they were busy and “really needed to get back to work.” Despite this suggestion, “Faris still lingered on his way out.” After Faris left, Arneson called the campaign’s security team. During this call Faris returned for the fourth time that day, but left quickly.

Faris appeals arguing ineffective assistance of counsel, a claim we review *de novo*. See *State v. Bearse*, 748 N.W.2d 211, 214 (Iowa 2008). To succeed on his ineffective-assistance-of-counsel claim, Faris must show counsel failed to perform an essential duty and he was prejudiced as a result. See *State v. Reynolds*, 670 N.W.2d 405, 411 (Iowa 2003). We resolve “such claims on direct appeal where the record is adequate to determine as a matter of law the defendant will be unable to establish one or both of the elements.” *Id.* We find the record adequate in this case.

Faris argues his trial counsel was ineffective for permitting him to plead guilty because the record does not contain a factual basis to support his *Alford* plea. “Where a factual basis for a charge does not exist, and trial counsel allows defendant to plead guilty anyway, counsel has failed to perform an essential duty.” *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa 1999). Additionally, prejudice is inherent under the circumstances. *Id.*

All pleas, including *Alford* pleas, must be supported by a factual basis. *See id.* Therefore, an *Alford* plea is conditioned on the court's ability to find factual support for every element of the offense in the record from sources other than the defendant. *See id.*

Iowa Code section 724.4(2) (2007), carrying weapons, requires proof a person armed with a concealed knife "uses the knife in the commission of a crime." The crime of harassment includes: a "person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person." Iowa Code § 708.7(1)(b).

Faris argues evidence to support an *Alford* plea must be "overwhelming" and more is required than what is necessary to form the factual basis for a non-*Alford* plea. We are not persuaded. Rather, the Iowa Supreme Court has instructed: "An *Alford* plea is a variation of a guilty plea. *In effect, the pleas are the same* as the defendant is agreeing to the imposition of a criminal sentence for the crime charged." *State v. Burgess*, 639 N.W.2d 564, 567 (Iowa 2001) (emphasis added). Though an *Alford* defendant does not admit guilt, he "may voluntarily, knowingly, and understandingly consent to the imposition of a sentence." *Id.* n.1. Further, the purpose of an *Alford* plea, "the defendant's cost-benefit analysis of avoiding the risks associated with a trial," does not suggest the district court's factual-basis requirement is somehow changed. *See State v. Klawonn*, 609 N.W.2d 515, 521 (Iowa 2000).

We note the level of proof necessary to support a factual basis for a guilty plea is not the same as the level of proof required to support a conviction. *See*

*State v. Keene*, 630 N.W.2d 579, 581 (Iowa 2001). “[T]he trial court is not required to extract a confession from the defendant. Instead, it must only be satisfied that the facts support the crime, not necessarily that the defendant is guilty.” *Id.* We are satisfied the facts support the crime. Therefore, a factual basis exists to support Faris’s plea of guilty. Accordingly, Faris’s counsel was not ineffective for permitting him to plead guilty.

**AFFIRMED.**