

**IN THE COURT OF APPEALS OF IOWA**

No. 8-191 / 07-1652

Filed April 9, 2008

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

**vs.**

**ERIC STEVEN STRENGE,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

Appeal from the denial of a motion in arrest of judgment. **AFFIRMED.**

Eric Kenyatta Parrish of Parrish, Kruidenier, Dunn, Boles, Gribble, Cook, Parrish, Gentry & Fisher, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, John P. Sarcone, County Attorney, and Frank S. Severino, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

**SACKETT, C.J.**

Defendant, Eric Streng, appeals from the trial court's denial of his motion in arrest of judgment. He contends "fundamental fairness requires a trial court to inform a defendant pleading guilty to a sex crime, who also has a predicate sex offense conviction, about possible civil commitment pursuant to Iowa Code chapter 229A." We affirm.

**I. Background proceedings.**

The State charged the defendant by trial information with third-degree sexual abuse, assault with intent to commit sexual abuse causing bodily injury, second-degree robbery, and second-degree burglary based on three incidents in 2005, 2006, and 2007, involving two alleged victims. Following plea negotiations, the defendant entered an *Alford* plea<sup>1</sup> of guilty to all four counts as charged. In its order accepting the plea, the court recounted its colloquy with the defendant:

By direct conversation with Defendant on the record, the Court finds the Defendant understands the charge and its penal consequences, the rights being waived, that there is a factual basis of the plea and that the plea is voluntary. The Court further finds that the Defendant has acknowledged 1) that it is in his/her best interest to enter this plea, 2) that he/she has nothing to gain at trial and will gain much more by pleading, 3) that there is strong evidence of actual guilt, and 4) that he/she wishes to take advantage of the plea bargain.

Before sentencing, the defendant filed a motion in arrest of judgment, alleging his plea was entered (1) without a full understanding of the

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<sup>1</sup> An *Alford* plea is a variation of a guilty plea in which a defendant does not admit participation in the acts constituting the crime but consents to the imposition of a sentence. *North Carolina v. Alford*, 400 U.S. 25, 37, 91 S. Ct. 160, 167, 27 L. Ed. 2d 162, 171 (1970) (holding Constitution does not bar sentence where accused is unwilling to admit guilt but is willing to waive trial and accept sentence).

consequences, (2) without a full knowledge of the charges or an understanding of the full range of rights forfeited, and (3) without understanding the agreement or the impact it could have on his sentencing. Following a hearing at which trial counsel testified, the court denied the motion. The court later sentenced the defendant according to the plea agreement.

## **II. Scope of Review.**

Our review of a ruling on a motion in arrest of judgment is for errors at law. Iowa R. App. P. 6 .4. We review both a trial court's decision to grant or deny a request to withdraw a guilty plea and motion in arrest of judgment for an abuse of discretion. *State v. Meyers*, 653 N.W.2d 574, 581 (Iowa 2002) (motion in arrest of judgment reviewed for abuse of discretion); *State v. Blum*, 560 N.W.2d 7, 9 (Iowa 1997) (review of ruling on request to withdraw a guilty plea is for abuse of discretion). To the extent the defendant raises a constitutional issue, our review is de novo. *State v. Carney*, 584 N.W.2d 907, 908 (Iowa 1998); *Gully v. State*, 658 N.W.2d 114, 118 (Iowa Ct. App. 2002).

## **III. Discussion.**

The defendant contends the court had a duty to inform him "about possible civil commitment pursuant to Iowa Code chapter 229A." To the extent the defendant alleges the court failed to inform him fully of the consequences of his plea, he implicates the Due Process Clause of the Fourteenth Amendment to the United States Constitution. See *Saadiq v. State*, 387 N.W.2d 315, 324 (Iowa 1986). To adhere to constitutional due process requirements a trial court must insure the defendant understands the direct consequences of the plea including the possible maximum sentence, as well as any mandatory minimum

punishment. *Id.* at 324-25. Iowa Rule of Criminal Procedure 2.8(2)(b) implements the constitutional due process standards for acceptance of a guilty plea. *State v. Ramirez*, 636 N.W.2d 740, 741-42 (Iowa 2001). Under the rule a trial court has a duty to inform the defendant of his or her rights, to determine whether the defendant understands the charge and its possible minimum and maximum penalties, and to determine whether the defendant appreciates the direct consequences of a guilty plea. Iowa R. Crim. P. 2.8(2)(b)(1)-(5). However, the court is not required to inform the defendant of all *indirect and collateral* consequences of a guilty plea. *State v. Carney*, 584 N.W.2d 907, 908 (Iowa 1998) (citing *Saadiq*, 387 N.W.2d at 325) (emphasis added).

Citing to the dissent in *Carney* and the New Jersey case, *State v. Bellamy*, 835 A.2d 1231, 1238-39 (N.J. 2003), the defendant argues “fundamental fairness” requires the trial court to inform him of possible collateral consequences because they are so severe. See *Carney*, 584 N.W.2d at 911; *Bellamy*, 835 A.2d at 1238-39. Although *Carney* dealt with revocation of a defendant’s driver’s license, Iowa courts have held a trial court is not required to inform a defendant of indirect or collateral consequences of a guilty plea, even if they are severe. See *State v. Ramirez*, 636 N.W.2d 740, 741-43 (Iowa 2001) (“Deportation may be a penalty more severe than a prison sentence.”) (quoting *Williams v. State*, 641 N.E.2d 44, 49 (Ind. Ct. App. 1994)).

Although the precise indirect or collateral consequence of possible civil commitment as a sexually-violent predator has not been addressed in Iowa, we conclude the current state of the law in Iowa does not require a trial court to inform a defendant of such possible collateral consequences of a guilty plea.

That said, “[i]t would, however, be proper, and probably desirable, for the court to advise a defendant of such matters.” *Ramirez*, 636 N.W.2d at 743 (discussing deportation). We affirm the trial court’s denial of the defendant’s motion in arrest of judgment.

**AFFIRMED.**