

MAREK A. KWASNIK

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES et al.

Submitted on Briefs August 29, 2012  
Decided September 20, 2012

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

#### MEMORANDUM OF DECISION

Marek A. Kwasnik appeals from the judgment of the Superior Court (Cumberland County, *Wheeler, J.*) on Kwasnik's M.R. Civ. P. 80C appeal of an administrative order of the Department of Health and Human Services ordering a turnover of one dollar found in a bank account at the Bank of America and an antique coin found in a safe deposit box seized at a Bank of America branch.<sup>1</sup> The Superior Court, while finding the search of the safe deposit box violative of Fourth Amendment requirements, affirmed the turnover of the one dollar and the antique coin to the Department to enforce Kwasnik's child support obligation. The Superior Court, after giving the matter thorough consideration, appropriately determined that while the seizure of the safe deposit box without a warrant may have been improper, in this civil action, the State could properly retain the coin found in the safe deposit box and use it toward payment of Kwasnik's child support obligation in the same manner as could have occurred with a turnover order in a debt collection proceeding. *See State v. Miller*, 669 A.2d 164, 165 (Me. 1995).

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<sup>1</sup> We also affirm the Superior Court's dismissal of Bank of America as a party.

The entry is:

Judgment affirmed.

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**On the briefs:**

Marek A. Kwasnik, appellant pro se

William J. Schneider, Attorney General, and Carlos Diaz, Asst. Atty. Gen.,  
Maine Attorney General's Office, Portland, for appellee Department of  
Health and Human Services