

STATE OF MAINE

v.

MAREK A. KWASNIK

Submitted on Briefs November 10, 2009

Decided November 19, 2009

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

MEMORANDUM OF DECISION

Marek A. Kwasnik appeals from the judgment entered by the court in the Unified Criminal Docket (Portland, *Beaudoin, J.*) denying his motion that the prior State dismissals “without prejudice” of two charges against him instead be dismissed “with prejudice.” In November 2008, Kwasnik was charged with erecting a tree stand on another’s property without owner permission (Class E), 12 M.R.S. § 10652(1)(B)(4) (2008) and hunting deer over bait (Class E), 12 M.R.S. § 11452(1)(B) (2008). After arraignment but before trial, the State dismissed each complaint without prejudice. The dismissal terminated the prosecution and the court’s authority over the no-longer-pending charges. *See* M.R. Crim. P. 48(a). “[D]ismissal . . . of prosecution is a matter within prosecutorial discretion” Rule 48(a) Advisory Committee Note (1980). Therefore, the court properly dismissed Kwasnik’s motion to require that the dismissals be with prejudice.

The entry is:

Judgment affirmed.

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Portland Unified Criminal Docket docket number CR-2009-715
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