

**State v. Johnson**

The defendant appeared when the case was called, but the prosecutor was not in the courtroom. The defense made a motion to dismiss the charges, which the judge granted. Later that day, the prosecution refiled the charges in another court. The defense had those charges dismissed as well, over the prosecutor's objection, as duplicative of the first case. The prosecutor appealed the second dismissal arguing that the court exceeded its authority in dismissing the case for reasons other than a defective indictment. The defense countered that the decision of the first court established a final judgment which precluded the second court from taking jurisdiction over the case.

The Court of Criminal Appeals ultimately determined that the actions of the second court were a nullity, because the first court's dismissal was improper, and therefore jurisdiction remained with the first court. Under established state law, the first court lacked authority to dismiss a prosecution except upon written motion of the prosecution in all but certain instances. The only circumstances identified by the first court as providing authority for a judge to set aside a charging instrument on its own authority involved situations where the defendant had been denied his or her constitutional right to a speedy trial.