

hereby expressly directed to enter judgment accordingly without further delay. See FSM Civ. R. 54(b).

With the entry of this Rule 54(b) judgment, all claims to the current ownership of the 2,160 Transco shares formerly owned by Salter Olter have been adjudicated. Mori's derivative action claims were previously dismissed. Mori v. Hasiguchi, 17 FSM Intrm. 630, 640-41 (Chk. 2011). Thus, the only claim left for resolution plaintiff Mori's claim that defendants Myron Hasiguchi and Truk Transportation Co., Inc. tortuously interfered with his stock purchase from Barney Olter. Counsel for Emanuel "Manny" Mori and defendants Myron Hasiguchi and Truk Transportation Co., Inc. shall therefore submit, no later than June 17, 2013, their proposals, including suggested trial dates if needed, to resolve the plaintiff's remaining claim.

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CHUUK STATE SUPREME COURT TRIAL DIVISION

CHUUK STATE,)	CSSC CR NO. 002-2006
)	
Plaintiff,)	
vs.)	
)	
RITAUO RANIK and SANTINO SOSI,)	
)	
Defendants.)	
_____)	

ORDER

Camillo Noket
Chief Justice

Decided: May 16, 2013

APPEARANCE:

For the Plaintiff:	Jayson Robert Deputy Attorney General Office of the Chuuk Attorney General P.O. Box 1050 Weno, Chuuk FM 96942
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HEADNOTES

Criminal Law and Procedure – Dismissal

Dismissal under Rule 48(a) is appropriate when the government represents that there is insufficient evidence to obtain a conviction. Chuuk v. Ranik, 19 FSM R. 25, 26-27 (Chk. S. Ct. Tr. 2013).

Criminal Law and Procedure – Dismissal

A dismissal under Criminal Rule 48(a) is granted without prejudice and by leave of court. In

considering whether to grant leave, a court must find that the dismissal is in the public interest. Factors among those customarily considered are whether the dismissal involved any harassment of the defendants and whether a bona fide reason, such as insufficient evidence to obtain a conviction, existed for the dismissal. Chuuk v. Ranik, 19 FSM R. 25, 27 (Chk. S. Ct. Tr. 2013).

Criminal Law and Procedure – Dismissal

When the court records indicate that the prosecution verbally moved for leave of the court to dismiss the case under Rule 48(a) of the Chuuk State Supreme Court Rules of Criminal Procedure and when the oral motion to dismiss coupled with the record fail to disclose any evidence of bad faith because the decision to terminate the prosecution was motivated by considerations that were not clearly contrary to manifest public interest, the dismissal will be granted. Chuuk v. Ranik, 19 FSM R. 25, 27 (Chk. S. Ct. Tr. 2013).

Criminal Law and Procedure – Dismissal

"Leave of court" in Rule 48(a) functions as a check on the prosecution's power to dispose of cases. Absent a demonstration of bad faith, the court has little discretion in regards to a Rule 48(a) motion to dismiss. Chuuk v. Ranik, 19 FSM R. 25, 27 (Chk. S. Ct. Tr. 2013).

Criminal Law and Procedure – Dismissal

A dismissal will be granted when the court cannot conclude that the government used Rule 48(a) to gain a tactical advantage, nor was there a demonstration of bad faith. Chuuk v. Ranik, 19 FSM R. 25, 27 (Chk. S. Ct. Tr. 2013).

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COURT'S OPINION

CAMILLO NOKET, Chief Justice:

I. BACKGROUND

A criminal information was filed on January 04, 2006, charging Defendant Ritauo (Ringko) Ranik with one count of Liability for the offense of Murder committed by another, one count of Liability for the offense of Manslaughter committed by another, one count of Liability for the offense of aggravated assault committed by another, and one count of liability for the offense of assault with a dangerous weapon committed by another. Defendant Santino (Romu) Rukan, was charged with one count of Liability for the offense of murder committed by another, one count of liability for the offense of manslaughter committed by another, one count of liability for the offense of aggravated assault committed by another and one count of liability for the offense of assault with a dangerous weapon committed by another.

Following the initial appearance on January 5, 2006, the Court ordered that the defendants be returned to custody due to concerns about their safety. On February 2, 2006, Defendant Ritauo R. Ranik, was released with conditions.

On June 20, 2012, Plaintiff moved for leave of the Court to dismiss the case pursuant to Rule 48(a) of the Chuuk State Supreme Court Rules of Criminal procedure. Said motion was granted. On July 20, 2012, Plaintiff then filed a Motion to Set Aside Order of Dismissal and to Set Trial.

II. STANDARD OF REVIEW

Dismissal under Rule 48(a) is appropriate when the government represents that there is insufficient evidence to obtain a conviction. FSM v. Tomiya Suisan Co., 11 FSM Intrm. 15, 16-17 (Yap 2002).

A dismissal pursuant to FSM Criminal Rule 48(a) is granted without prejudice and by leave of court. In considering whether to granted leave, a court must find that the dismissal is in the public interest. Factors among those customarily considered are whether the dismissal involved any harassment of the defendants and whether a bona fide reason, such as insufficient evidence to obtain a conviction, existed for the dismissal. FSM v. Yue Yuan Yu No. 346, 7 FSM Intrm. 162, 163 (Chk. 1995).

In considering whether leave to dismiss is to be granted, it must be found that the dismissal is in the public interest. FSM v. Ocean Pearl, 3 FSM Intrm. 87, 91 (Pon. 1987).

III. LEGAL ANALYSIS

In the motion to set aside, Plaintiff asserts that the oral motions to dismiss only pertained to cases that were misdemeanors and that any delay in the trial, rests with the court. The motion further alleges that on January 3, 2006, plaintiff filed a motion to reset trial date. The motion indicates that a dismissal that is not on the merits, would essentially 'punish' the people of Chuuk. The motion further states that the plaintiff would file "appropriate pleadings" within 30 days of the status conference to expedite the matter. Save for the aforementioned motion, nothing was filed within the 30-day period.

The Court records indicate that the Plaintiff verbally moved for leave of the Court to dismiss the case pursuant to Rule 48(a) of the Chuuk State Supreme Court Rules of Criminal Procedure. The oral motion to dismiss coupled with the record fail to disclose any evidence of bad faith because the decision to terminate the prosecution was motivated by considerations that were not clearly contrary to manifest public interest. "Leave of court" in Rule 48(a) functions as a check on the power of the Plaintiff to dispose of cases. Absent a demonstration of bad faith, the Court has little discretion in regards to a Rule 48(a) motion to dismiss.

In this case, the Court cannot conclude that the government used Rule 48(a) to gain a tactical advantage, nor was there a demonstration of bad faith.

IV. CONCLUSION

WHEREFORE, it is hereby ORDERED that this action is DISMISSED without prejudice pursuant to Rule 48(a) of the Chuuk State Supreme Court Rules of Criminal Procedure. All scheduled dates in this matter are VACATED, and all pending motions are TERMINATED.

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