

§ 15-173. Motion to dismiss based on the evidence.

When on the trial of any criminal action in the superior or district court, the State has introduced its evidence and rested its case, the defendant may move to dismiss the action. If the motion is allowed, judgment shall be entered accordingly; and the judgment has the force and effect of a verdict of "not guilty" as to the defendant. If the motion is refused and the defendant does not choose to introduce evidence, the case shall be submitted to the jury as in other cases, and the defendant may on appeal urge as ground for reversal the trial court's denial of the motion without the necessity of the defendant's having objected to the denial.

If the defendant introduces evidence, the defendant thereby waives any motion to dismiss that the defendant made prior to the introduction of the defendant's evidence and cannot urge the prior motion as ground for appeal. The defendant, however, may make the motion at the conclusion of all the evidence in the case, irrespective of whether or not the defendant made a motion to dismiss beforehand. If the motion is allowed, or is sustained on appeal, it has in all cases the force and effect of a verdict of "not guilty." If the motion is refused, the defendant may on appeal, after the jury has rendered its verdict, urge as ground for reversal the trial court's denial of the motion made at the close of all the evidence without the necessity of the defendant's having objected to the denial. (1913, c. 73; Ex. Sess. 1913, c. 32; C.S., s. 4643; 1951, c. 1086, s. 1; 1973, c. 1141, s. 16; 2023-54, s. 6.)