

ANIMAL WELFARE PROGRAM

v.

FERN CLARK

Argued October 27, 2008
Decided December 18, 2008

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

MEMORANDUM OF DECISION

Fern Clark appeals from a judgment entered in the District Court (Wiscasset, *Tucker, J.*) denying her motion to stay and granting a possession order allowing the Animal Welfare Program to take possession of her animals. Clark makes numerous arguments that we do not address for reasons of mootness and a lack of standing. In addition, we decline to address Clark's contention that the security provision of 17 M.R.S. § 1021(6)(D) (2007) is unconstitutional as applied to persons who are indigent because it precludes them from appealing. Clark lacks standing to challenge the security provision, *see Tornesello v. Tisdale*, 2008 ME 84, ¶ 8, 948 A.2d 1244, 1248, because M.R. Civ. P. 91(f)(1) allowed her to appeal her case *in forma pauperis*. The Animal Welfare Program argues that the court erred by refusing to condition Clark's appeal on the payment of security pursuant to section 1021(6)(D). We address only that aspect of the security.

Although the District Court erred in interpreting M.R. App. P. 3(b) to preclude it from determining and applying security pursuant to section 1021(6)(D), the operation of M.R. Civ. P. 91(f)(1) would have similarly resulted in Clark not having to pay security. Therefore, because we come to the same conclusion using a different rationale, the District Court's error was harmless. *See Bouchard v.*

Frost, 2004 ME 9, ¶ 8, 840 A.2d 109, 111; Alexander, *Maine Appellate Practice* § 405(a) at 219-20 (2008).

The entry is:

Judgment affirmed.

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