

STATE OF MAINE

v.

ROBERT J. HUBBARD SR.

Submitted on Briefs June 1, 2011

Decided June 9, 2011

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

MEMORANDUM OF DECISION

Robert J. Hubbard Sr. appeals from a judgment of the District Court (Belfast, *Worth, J.*) forfeiting Hubbard's dogs, cat, and pigs to the State of Maine Animal Welfare Program. Contrary to Hubbard's arguments on appeal, (1) the attorney for the State did not charge him with both a crime and a civil violation, *see State v. Chubbuck*, 449 A.2d 347, 350 (Me. 1982), and the civil forfeiture proceeding arising out of the same operative facts that led to his criminal prosecution did not violate double jeopardy, *see State v. Hider*, 1998 ME 203, ¶ 22, 715 A.2d 942, 948; (2) the court did not violate Hubbard's due process rights by complying with the statutory procedures outlined in 17 M.R.S. § 1021(5-A) (2009),¹ *see State v. Malpher*, 2008 ME 32, ¶¶ 14-16, 947 A.2d 484, 487-88; (3) the exclusionary rule did not require the exclusion of evidence from his civil forfeiture proceeding, *see Powell v. Sec'y of State*, 614 A.2d 1303, 1306-07 (Me. 1992); (4) there was no "substantial and obvious prejudice" requiring the court to continue the May 4, 2009, hearing, *see Hatch v. Anderson*, 2010 ME 94, ¶ 9, 4 A.3d 904, 906, and the court did not abuse its discretion in denying Hubbard's motion to reopen the evidence, *see Dalphonse v. St. Laurent & Son*,

¹ Title 17 M.R.S. § 1021(5-A) (2009) has since been amended, though not in any way that affects the present case. *See* P.L. 2009, ch. 573, §1 (effective July 12, 2010).

Inc., 2007 ME 53, ¶ 16, 922 A.2d 1200, 1205; (5) the court did not abuse its discretion in issuing a judgment without giving counsel the opportunity to present a final argument, *see Coppersmith v. Coppersmith*, 2001 ME 165, ¶ 7, 786 A.2d 602, 604; and (6) the court's findings of fact are supported by competent evidence in the record and are not clearly erroneous, *see* M.R. Civ. P. 52(a).

The entry is:

Judgment affirmed.

Attorney for Robert J. Hubbard Sr.:

Louis J. Shiro, Esq.
Shiro & Shiro Law Offices
PO Box 706
Waterville, Maine 04903-0706

Attorney for the State of Maine:

Neil J. Predergast, Asst. Dist. Atty.
Waldo County Courthouse
137 Church Street
Belfast, Maine 04915