

STATE OF MAINE

v.

LUCAS WALL

Submitted on Briefs September 27, 2012

Decided October 4, 2012

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

MEMORANDUM OF DECISION

Lucas Wall appeals from the judgment of the District Court (Augusta, *Beliveau, J.*) denying his motion, filed pursuant to M.R. Civ. P. 60(b)(5) and 60(b)(6), for relief from a default judgment entered after his failure to appear for hearing for a traffic violation. *See* M.R. Civ. P. 80F. We reach the merits of Wall's appeal notwithstanding the fact that his brief suggests that the issues raised may be moot. *See Gay v. Dube*, 2012 ME 30, ¶ 17, 39 A.3d 52 (discussing mootness).

Contrary to Wall's central contention on appeal, the District Court did not abuse its discretion when it denied his motion for relief from the default judgment, entered against him more than five years earlier, on the grounds of Maine's alleged noncompliance with the notification requirements of Article III(f) of the Nonresident Violator Compact of 1977 (NRVC). Assuming for purposes of this appeal that the provisions of the NRVC apply, Article III(f) does not provide a basis for setting aside the default judgment, and, regardless, the record does not support a determination that Maine failed to comply with Article III(f) of the NRVC. Accordingly, Wall has not shown good cause to have the default judgment set aside. *See* M.R. Civ. P. 80F(k)(2) (stating that a court may set aside a default

and adjudication, entered for failure to appear for a traffic infraction hearing, “under M.R. Civ. P. 55(c) and 60(b), as applicable[,]” for “good cause shown”). *See Ezell v. Lawless*, 2008 ME 139, ¶¶ 18-19, 955 A.2d 202 (stating the standard of review). Additionally, the court did not abuse its discretion in denying his motion because Wall did not, under the circumstances presented, file his Rule 60(b)(5) and 60(b)(6) motion “within a reasonable time.” *See* M.R. Civ. P. 60(b).¹

Additionally, the court did not abuse its discretion in denying Wall’s motion for relief from judgment because, as Wall argues, the State did not oppose his motion, *see* M.R. Civ. P. 7(b)(7) (providing that the fact that a motion is unopposed does not assure that the relief requested will be granted), or because the court did not explicitly address certain of the legal arguments that Wall raised in his motion, *see* M.R. Civ. P. 52(a) (providing that findings of fact and conclusions of law are unnecessary on decisions of Rule 60(b) motions).²

The entry is:

Judgment affirmed.

On the briefs:

Lucas Wall, appellant pro se

Alan P. Kelley, Acting District Attorney, and Alisa Ross, Asst. Dist. Atty.,
Prosecutorial District IV, Augusta, for appellee State of Maine

Violations Bureau docket number TI-2006-152211
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¹ We likewise conclude that the court did not abuse its discretion in denying Wall’s motion for relief from judgment based on provisions of the Driver License Compact, *see* 29-A M.R.S. §§ 1451-1475 (2011), or the National Driver Register, *see* 49 U.S.C.S. §§ 30301-30308 (2004 & Pamph. 2012).

² To the extent that Wall asserts in his reply brief that the court also abused its discretion in denying his motion on the grounds that he did not receive notice to appear at the 2006 hearing or that he had not, in fact, been travelling in excess of the speed limit in 2006, those issues were not properly raised before the District Court and are deemed waived. *See Teel v. Colson*, 396 A.2d 529, 533-34 (Me. 1979).