

MARY E. SABALL

v.

DOUGLAS J. SABALL

Submitted on Briefs October 24, 2017  
Decided December 12, 2017

Panel: SAUFLEY, C.J., and MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

#### MEMORANDUM OF DECISION

Douglas J. Saball appeals from a judgment of the District Court (Belfast, *Worth, J.*) denying his motion for reconsideration after it denied his motion to modify spousal support. Saball argues that the court abused its discretion in determining his earning capacity by (1) failing to consider the effect of his disability benefits and (2) including employment benefits as part of his income. Saball also argues that the court abused its discretion in determining he was precluded from using the motion for reconsideration to request that his spousal support be reduced.

Contrary to Saball's contention, the court did not abuse its discretion. The court expressly acknowledged the effect of Saball's disability benefits on his earning capacity, and Saball articulates no reason why the court abused its discretion in doing so. *See Mehlhorn v. Derby*, 2006 ME 110, ¶ 11, 905 A.2d 290 (“[I]ssues averted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.”). Additionally, the court did not abuse its discretion by including employment benefits when calculating Saball's income. *See* 19-A M.R.S. § 951-A(5)(G) (2016) (in determining an award of spousal support, a trial court must

consider “[t]he provisions of retirement and health insurance benefits of each party”). Finally, the court properly held that, because Saball’s motion to modify requested a “discontinuance” of spousal support, he was precluded from using a motion for reconsideration to then argue for an “adjust[ment]” of spousal support. *See* M.R Civ. P. 7(b)(5) advisory committee’s note to 2000 amend, Me. Rptr., 746-754 A.2d XXVIII (“Too frequently, disappointed litigants [improperly] bring motions to reconsider . . . solely to reargue points that were or could have been presented to the court on the underlying motion.”).

The entry is:

Judgment affirmed.

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Douglas J. Saball, appellant, pro se

Joseph W. Baiungo, Esq., Belfast, for appellee Mary E. Saball

Belfast District Court docket number FM-2011-72  
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