

HEATHER WALLACE

v.

MATTHEW DIKO JR.

Submitted on Briefs November 28, 2018  
Decided December 6, 2018

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

MEMORANDUM OF DECISION

Heather Wallace appeals from a judgment entered in the District Court (Belfast, *Worth, J.*) denying her motion for relief from a divorce judgment entered a year earlier pursuant to M.R. Civ. P. 60(b). Wallace contends that the divorce judgment overvalued the marital home, resulting in a manifest injustice. Contrary to Wallace's contention, the court did not abuse its discretion in denying her motion for relief because Wallace had not diligently pursued her rights. *See Ezell v. Lawless*, 2008 ME 139, ¶ 28, 955 A.2d 202. Evidence that Wallace offered in support of her motion could have been offered at trial, *see Reville v. Reville*, 370 A.2d 249, 253 (Me. 1977), and, to the extent her motion related to evidence that was presented at trial, Wallace did not appeal directly from the divorce judgment pursuant to M.R. App. P. 2A. *See Ezell*, 2008 ME 139, ¶ 18, 955 A.2d 202; *Calaska Partners, L.P. v. Dahl*, 676 A.2d 498, 501 (Me. 1996).

The entry is:

Judgment affirmed. Remanded to the District Court for consideration of Diko's request for an

award of attorney fees associated with this appeal.

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Elizabeth Noble, Esq, Harmon, Jones & Sanford LLP, Camden, for appellant Heather Wallace

Christopher K. MacLean, Esq., and Laura P. Shaw, Esq., Camden Law LLP, Camden, for appellee Matthew Diko, Jr.

Belfast District Court docket number FM-2016-138  
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