

AIMEE O'BRIEN

v.

GNANENDRA A. JEYARAJAN

Submitted on Briefs April 24, 2019

Decided May 2, 2019

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

#### MEMORANDUM OF DECISION

Gnanendra A. Jeyarajan appeals from orders entered in the District Court (York, *Cantara, J.*) denying his motion for relief from judgment, *see* M.R. Civ. P. 60(b), and motion to alter or amend the judgment and for additional findings, *see* M.R. Civ. P. 52(b), 59(e), after the court entered an order modifying the parties' divorce judgment, which Jeyarajan failed to timely challenge.

Contrary to Jeyarajan's contentions on appeal, the court did not abuse its discretion in denying his motion for relief from judgment pursuant to M.R. Civ. P. 60(b)(1) and (3). *See Ezell v. Lawless*, 2008 ME 139, ¶ 19, 955 A.2d 202 (stating that we review the denial of a motion for relief from judgment pursuant to M.R. Civ. P. 60(b) for an abuse of discretion and will affirm the court's judgment unless "failure to grant . . . relief works a plain and unmistakable injustice against the moving party"); *Pederson v. Cole*, 501 A.2d 23, 25 (Me. 1985) ("The moving party must allege facts sufficient to support a claim of . . . surprise . . . and make some showing of why he was justified in failing to avoid the . . . surprise." (citation omitted)); *see also Randall v. Conley*,

2010 ME 68, ¶ 14, 2 A.3d 328 (“When clear and convincing evidence is required, [the moving party] bear[s] the burden of persuasion to place in the ultimate factfinder an abiding conviction that the truth of [his] factual contentions [is] highly probable.”).

The court also did not err in denying Jeyarajan’s motion to alter or amend the judgment and for additional findings pursuant to M.R. Civ. P. 52(b) and 59(e) because Jeyarajan’s motion simply reargued his Rule 60(b) claims rather than “concisely indicat[ing] the conclusions on which additional fact-finding is desired,” M.R. Civ. P. 52 Advisory Note to 2015 amend., *see Wandishin v. Wandishin*, 2009 ME 73, ¶ 19, 976 A.2d 949 (“Once the court has found the facts, it is not required to explain the rationale used to support each finding of fact or conclusion of law.”), and the court’s judgment provides a sufficient basis to inform the parties of its reasoning and allows for informed appellate review, *see Sewall v. Saritvanich*, 1999 ME 46, ¶¶ 9-10, 726 A.2d 224.

The entry is:

Judgments affirmed.

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