

DEBORAH A. BLACKFORD

v.

THOMAS D. BLACKFORD

Submitted on Briefs May 30, 2019
Decided June 6, 2019

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

MEMORANDUM OF DECISION

Deborah A. Blackford appeals from a judgment of the District Court (Wiscasset, *Raimondi, J.*) dismissing her motion for post-judgment relief in this divorce action, arguing that the court erred in concluding that her claim was barred by M.R. Civ. P. 60(b)(3). Contrary to Deborah's contentions, the court did not clearly err in concluding that there was no fraudulent concealment of property by Thomas D. Blackford, *see Randall v. Conley*, 2010 ME 68, ¶ 11, 2 A.3d 328, nor did it err as a matter of law in concluding that the claim was time barred. *Estate of Weatherbee*, 2014 ME 73, ¶ 14, 93 A.3d 248.

There was competent record evidence that two of the allegedly concealed trusts were disclosed by name in the parties' joint tax return filed the year before the divorce judgment was entered. The court did not clearly err in concluding that Deborah was on notice of the possible existence of other trust property and income and free to seek discovery of such assets during the pendency of the divorce. *Cf. Efstathiou v. Aspinquid, Inc.*, 2008 ME 145, ¶¶ 17-18, 956 A.2d 110. Moreover, Deborah presented no evidence that any of

the allegedly omitted trust property constituted marital property that was subject to division. *See* 19-A M.R.S. § 953(9) (2018).

The court also did not err in determining that it has no jurisdiction to retroactively modify a child support order for the parties' child who was almost thirty years old when Deborah filed her motion. Although modification may be ordered retroactively to the date of service, *see* 19-A M.R.S. § 2009(2) (2018), no statutory authority exists for the court to reopen a long expired child support order to recalculate support obligations based on income purportedly generated by nonmarital property. Finally, the court did not abuse its discretion by limiting discovery as it did. *Cf. Berntsen v. Berntsen*, 2017 ME 111, ¶¶ 10-11, 163 A.3d 820.

The entry is:

Judgment affirmed.

Thomas F. Shehan, Jr., Esq., Searsport, for appellant Deborah A. Blackford

William M. Avantaggio, Esq., Damariscotta, for appellee Thomas D. Blackford