

AMANDA E. SEDGEWICK

v.

NICHOLAS W. RAGO

Submitted on Briefs September 29, 2020
Decided October 6, 2020

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

Nicholas W. Rago appeals from post-divorce judgments entered in the District Court (York, *D. Driscoll, J.*) denying Rago's motion for relief from judgment, *see* M.R. Civ. P. 60(b)(6), and granting Amanda E. Sedgewick's motion for contempt, *see* M.R. Civ. P. 66(d), and motion to enforce.¹ After we affirmed the parties' divorce judgment, *Sedgewick v. Rago*, Mem-19-17 (February 21, 2019), Rago filed a motion for relief from judgment in the District Court, requesting a modification of the divorce judgment's property division and an enlargement of time to exercise a buyout option for the parties' Newry property. In the context of this case—given the prior appeal, a failed attempt to collaterally attack the divorce judgment pursuant to M.R. Civ. P. 60(b)(1)-(3), and Rago's noncompliance with the divorce judgment—the court's denial of Rago's motion was far from an abuse of discretion. *See Haskell v. Haskell*, 2017 ME 91, ¶ 12, 160 A.3d 1176; *see also Danielson v. Yi Peng*, 2017 ME 80, ¶¶ 1-6, 159 A.3d 1223; *Godsoe v. Godsoe*, 2010 ME 42, ¶¶ 15-17, 995 A.2d 232.

¹ Although the trial court's judgment indicates that it denied Sedgewick's motion to enforce as moot, the judgment in fact granted Sedgewick's motion, in part, by assigning a special master to facilitate the sale of the parties' Newry property.

Contrary to Rago's contentions, the court did not err or abuse its discretion in finding by clear and convincing evidence that Rago had failed to pay certain sums ordered in the divorce judgment and that he had the "ability to at least partially comply." See M.R. Civ. P. 66; *Lewin v. Skehan*, 2012 ME 31, ¶ 18, 39 A.3d 58; *Efstathiou v. Efstathiou*, 2009 ME 107, ¶ 10, 982 A.2d 339. Furthermore, the court neither erred nor abused its discretion by ordering the sale of the Newry property in accordance with the divorce judgment when the parties did not have an agreement to extend the deadline and Rago had failed to timely exercise the buyout option. See *Dobbins v. Dobbins*, 2020 ME 73, ¶ 17, --- A.3d ---. Additionally, the court did not violate Rago's due process rights by ordering him to pay child support arrearages when Sedgewick's motion provided Rago with adequate notice and the court held a contested hearing in which Rago fully participated. See *Sparks v. Sparks*, 2013 ME 41, ¶¶ 28-29, 65 A.3d 1223; *Jusseume v. Ducatt*, 2011 ME 43, ¶ 12, 15 A.3d 714; see also *Mitchell v. Kriekhaus*, 2017 ME 70, ¶¶ 16-20, 158 A.3d 951.

Finally, Sedgewick properly requested sanctions, through a separately filed motion, alleging that Rago's appeal of the denial of his motion for relief from judgment is frivolous and that his purpose in appealing the contempt judgment is to delay resolution of the matter and drive up costs. See M.R. App. P. 13(f). Rago objected to Sedgewick's request, and we issued an order notifying the parties that the matter would be considered with the merits of the appeal. After such consideration, we conclude that sanctions are appropriate here. In this appeal, Rago attempts to relitigate the division of marital assets and debts—an issue that was finally decided in Rago's appeal of the divorce judgment. After we affirmed the divorce judgment and the trial court denied his motion for relief from judgment, Rago could not have reasonably expected to prevail in this appeal. Furthermore, although Rago's contention that the court erred by finding that he had the ability to at least partially comply with the divorce judgment presents a colorable issue of law appropriate for appellate review, the remainder of his arguments do not. The record demonstrates Rago's obstinate refusal to accept the obligations imposed by the divorce judgment, and his actions have resulted in further delay and unnecessary costs. See *Fox v. Fox*, 2019 ME 163, ¶¶ 9-14, 221 A.3d 126; *Edwards v. Campbell*, 2008 ME 173, ¶¶ 11-12, 960 A.2d 324; *Wooldridge v. Wooldridge*, 2008 ME 11, ¶¶ 13-14, 940 A.2d 1082; *St. Hilaire v. St. Hilaire*, 2004 ME 13, ¶¶ 6-7, 841 A.2d 783. We therefore remand this matter to the District

Court for calculation and award of attorney fees and treble costs to Sedgewick for the prosecution of this appeal.

The entry is:

Judgment affirmed. Remanded to the District Court for calculation and award of Sedgewick's attorney fees and treble costs.

Nicholas W. Rago, appellant pro se

Susan S. Bixby, Esq., MittelAsen, LLC, Portland, for appellee Amanda E. Sedgewick

York District Court docket number FM-2015-103
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