

LORIE L. McCARTHY

v.

JAMES J. CHARTIER

Submitted on Briefs October 2, 2008

Decided October 14, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Lorie L. McCarthy appeals from a judgment of the District Court (Caribou, *Daigle, J.*) denying her motion to amend a child support order. James J. Chartier cross-appeals the ruling on his motion to amend the same order. Contrary to McCarthy's contention, the court did not abuse its discretion in denying her motion to modify because she failed to prove by a preponderance of the evidence that there had been a substantial change in circumstances regarding her disabled son's needs. *See* 19-A M.R.S. § 2009 (2007); *see also Twomey v. Twomey*, 2005 ME 124, ¶¶ 12-13, 888 A.2d 272, 275; *Lee v. Maier*, 1999 ME 62, ¶ 6, 728 A.2d 154, 156. Additionally, a motion for relief from judgment, rather than a motion to modify, was McCarthy's proper recourse for attacking the validity of the initial child support order. *See* M.R. Civ. P. 60(b). The court did not abuse its discretion in refusing Chartier's request to expand the issues raised by his motion, and because Chartier had returned to work, the court did not err in finding that no further relief could be granted to him. *See Lee*, 1999 ME 62, ¶¶ 14-16, 728 A.2d at 157-58; M.R. Civ. P. 7(b)(1), (3).

The entry is:

Judgment affirmed.

Attorneys for Lorie L. McCarthy:

Sarah E. LeClaire, Esq.
409 Main Street
Presque Isle, Maine 04769

Lisa C. Chase, Esq.
6 Page Avenue
Caribou, Maine 04736

Attorney for James J. Chartier:

Francis E. Bemis, Esq.
Bemis & Rossignol, LLC
454 Main Street
Presque Isle, Maine 04769