

ROBERT J. DRISCOLL

v.

MARY E. DRISCOLL

Submitted on Briefs November 23, 2009

Decided December 1, 2009

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

MEMORANDUM OF DECISION

Robert J. Driscoll appeals from a judgment of the District Court (West Bath, *Field, J.*) denying his motion for relief from judgment pursuant to M.R. Civ. P. 60(b)(6). Robert contends that the court erred in interpreting Mary E. Driscoll's right under the separation agreement, which was incorporated into the divorce judgment, to occupy the Bowdoinham property. He alleges that this error caused him a manifest injustice, which entitled him to M.R. Civ. P. 60(b)(6) relief. However, all of Robert's claims and arguments were raised, or could have been raised, in prior litigation, which he did not challenge on direct appeal, and are therefore barred by *res judicata*. *State v. Thompson*, 2008 ME 166, ¶ 8, 958 A.2d 887, 890; *McKeen & Assoc. v. Dep't of Transp.*, 1997 ME 73, ¶ 4, 692 A.2d 924, 926 ("The principles of *res judicata* bar relief under Rule 60(b) when, as here, the aggrieved party has failed to challenge the validity of the underlying judgment on direct appeal.") (quotation marks omitted).

The entry is:

Judgment affirmed.

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