

KRISTY L. (CLARK) WEDGE

v.

TIMOTHY D. CLARK

Submitted on Briefs July 21, 2010

Decided July 29, 2010

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

MEMORANDUM OF DECISION

Timothy D. Clark appeals from the District Court's (Bangor, *Gunther, J.*) judgment denying his motion for relief from a divorce judgment. The judgment that Clark seeks to set aside was entered on September 29, 2006 and, although Clark received actual notice of the judgment not later than October of 2006, he did not move to set it aside until March of 2009. The court denied the motion for relief from judgment as to all issues except parental rights and responsibilities, which remain pending pursuant to his motion to modify the judgment. We affirm. The court did not violate Timothy's due process rights or render the divorce judgment void pursuant to M.R. Civ. P. 60(b)(4) by failing to send notice of the final hearing to his new address; the court made an adequate attempt at actual notice by using the address it previously had on file for him. *See Gaeth v. Deacon*, 2009 ME 9, ¶ 21, 964 A.2d 621, 626; *Cummings v. Bean*, 2004 ME 93, ¶ 7, 853 A.2d 221, 223 (stating de novo standard of review). Additionally, the court did not abuse its discretion in denying relief requested pursuant to M.R. Civ. P. 60(b)(6), *see In re David H.*, 2009 ME 131, ¶ 41, 985 A.2d 490, 499 (per curiam) (stating abuse of discretion standard of review), because Timothy did not do his part to protect his interest in the original litigation, *see Ezell v. Lawless*, 2008 ME 139, ¶ 28, 955

A.2d 202, 209, and because the motion for relief was filed over two years after the divorce judgment, *see Tarbuck v. Jaeckel*, 2000 ME 105, ¶ 14, 752 A.2d 176, 180.

The entry is:

Judgment affirmed.

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