

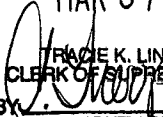
IN THE SUPREME COURT OF THE STATE OF NEVADA

ELI LLOYD,
Appellant,
vs.
MAXINE ROYSTER,
Respondent.

No. 50014

FILED

MAR 07 2008

TRAZIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying an NRCP 60(b) motion for relief from a divorce decree. Second Judicial District Court, Family Court Division, Washoe County; Deborah Schumacher, Judge.

Appellant Eli Lloyd and respondent Maxine Royster were married in 1982 and have no minor children. In 2005, Eli filed a complaint for divorce. The parties' respective pleadings and supporting documentation indicated that Eli and Maxine were in agreement that the marital home, which Eli had owned since before the marriage, was nonetheless to be considered 100 percent community property for the purposes of the divorce. Additionally, the pleadings and supporting documents indicated that the parties appeared to be in agreement that all of Eli's retirement benefits were also to be considered community property, despite the fact that a portion of these benefits were earned before the marriage.

In December 2006, the district court, after a hearing, entered a divorce decree, awarding Maxine half of Eli's lump sum retirement

distribution and, subsequent to sale, half of the proceeds from the marital home.

Approximately one month later, Eli filed, in proper person, a motion to alter provisions in the divorce decree. Alleging attorney error, Eli requested that the court return to him any retirement benefits that he had earned before the marriage, and recognize the marital home as his separate property. Treating Eli's motion as both a request for NRCP 60(b) relief and a motion for reconsideration, the district court denied it.

Eli did not appeal from the order denying his motion, but four months later he filed in the district court a proper person NRCP 60(b) motion, that, among other things, again asked for relief from the divorce decree regarding the divisions of the retirement benefits and marital home. The district court denied the portions of Eli's NRCP 60(b) motion regarding the marital home and the retirement benefits. Eli appeals.

Under NRCP 60(b), the district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment, and the district court's determination will not be disturbed on appeal absent an abuse of discretion.¹

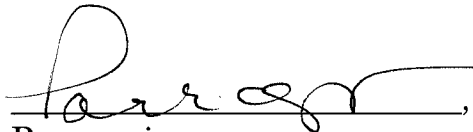
We have considered both the appellate record and Eli's civil proper person appeal statement, and we conclude that the district court did not abuse its discretion when it denied Eli's NRCP 60(b) motion. As the district court pointed out, Eli's divorce complaint itself explains that

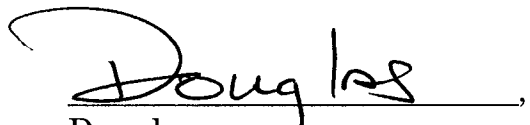
¹Cook v. Cook, 112 Nev. 179, 912 P.2d 264 (1996); see also Smith v. Smith, 102 Nev. 110, 716 P.2d 229 (1986) (recognizing that this court will uphold the decision of the district court granting or denying an NRCP 60(b) motion if there is substantial evidence in the record to support that decision).

any proceeds from the sale of the marital home were to be divided evenly between Maxine and Eli. An affidavit signed by Eli accompanied the divorce complaint and stated that he had read and understood the complaint's contents. The subsequent filings leading up to the divorce hearing all support the district court's finding that the parties were in agreement to divide equally the proceeds from the sale of the marital home. Additionally, the record indicates that the district court did not abuse its discretion when it determined that Eli did not establish a ground under NRCP 60(b) to set aside the division of his retirement benefits. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

²To the extent that Eli challenges the district court's attorney fees order, we conclude that the district court acted within its discretion when it awarded \$300 in attorney fees to Maxine based on Eli's repetitive NRCP 60(b) motion. See NRS 18.010(2)(b); Allianz Ins. Co. v. Gagnon, 109 Nev. 990, 995, 860 P.2d 720, 724 (1993).

cc: Hon. Deborah Schumacher, District Judge
Eli Lloyd
Washoe Legal Services
Washoe District Court Clerk