

IN THE SUPREME COURT OF THE STATE OF NEVADA

GERALD B. JURISCH,
Appellant,
vs.
ELIZABETH B. PEEL,
Respondent.

No. 59291

FILED

JAN 21 2014

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *Angers*
DEPUTY CLERK

ORDER OF AFFIRMANCE

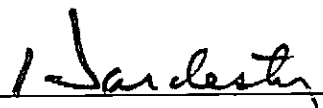
This is a proper person appeal from a district court order denying a motion to set aside a default divorce decree. Second Judicial District Court, Family Court Division, Washoe County; Chuck Weller, Judge.


Respondent filed for divorce in 1998 and appellant was personally served with the divorce complaint. When respondent amended the divorce complaint, she attempted to serve appellant by mail and through publication. She also provided copies of the pleadings to an attorney in Minnesota who appellant had previously employed. When appellant failed to appear in the action, a default divorce decree and judgment were entered against him. Twelve years later, appellant filed the underlying motion to set aside the judgment under NRCP 60(b), which the district court denied. This appeal followed.

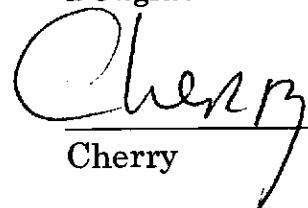
Having considered the parties' briefs and the record on appeal, we conclude that the district court did not abuse its discretion in denying appellant's motion to set aside the judgment under NRCP 60(b). *See Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996) (providing that this court will not disturb a district court's decision to grant or deny a motion to set aside a judgment absent an abuse of discretion). A motion to

set aside a judgment under NRCP 60(b) must be filed within six months if based on fraud, or within a reasonable time if the motion alleges that the judgment is void. Here, the district court did not abuse its discretion in concluding that 12 years was not a reasonable time to wait to file the NRCP 60(b) motion. *See* NRCP 60(b). Additionally, while NRCP 60(b) allows for an independent action to set aside a judgment based on fraud upon the court, there seems to be no grave miscarriage of justice here as appellant was on notice of the action because he was personally served with the divorce complaint. *See Bonnell v. Lawrence*, 128 Nev. ___, ___, 282 P.3d 712, 717 (2012) (explaining that under NRCP 60(b), an independent action requesting a judgment be set aside based on a fraud upon the court is only available to prevent a grave miscarriage of justice). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

¹We conclude that appellant's remaining arguments lack merit.

cc: Hon. Chuck Weller, District Judge, Family Court Division
Shawn B. Meador, Settlement Judge
Gerald B. Jurisch
Kathleen T. Breckenridge
Washoe District Court Clerk