IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARVIN T. HAWK,[1]	§	
	§	
Petitioner Below-Appellant,	§	No. 145, 2012
	§	
	§	
v.	§	Court Below—Family Court
	§	of the State of Delaware,
DIVISION OF CHILD SUPPORT ENFORCEMENT/KAREN R. PETERS,	§	in and for New Castle County
	§	File No. CN93-08549
	§	Petition No. 06-12257
	§	
Respondents Below-Appellees.	§	
	§	

Submitted: May 17, 2012
Decided: June 25, 2012

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

O R D E R

This 25th day of June 2012, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, Marvin Hawk ("Father"), filed this appeal from a Family Court decision, dated February 21, 2012, denying his motion to reopen a 2006 child support order. The Division of Child Support Enforcment (DCSE), as the real party in interest, has filed a motion to affirm

[1] The Court assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

the judgment below on the ground that it is manifest of the face of Father's opening brief that his appeal is without merit. We agree and affirm.

(2) The relevant facts in the record reflect that Father and Karen Peters ("Mother") are the parents of a son who was born in December 1992. In April 2006, Mother filed a petition for child support. Father was served with the petition but failed to appear for the mediation conference. Consequently, on September 7, 2006, a default judgment was entered ordering Father to pay child support. Father filed a motion to reopen the judgment in November 2007, which the Family Court denied. Father filed a second motion to reopen in January 2008, which also was denied. Father filed his third motion to reopen, which a Family Court Commissioner denied on November 3, 2011. Father sought de novo review, and a Family Court judge denied his motion to reopen in a ten-page opinion dated February 21, 2012. This appeal followed.

(3) In his opening brief on appeal, Father argues that the 2006 default judgment against him was void because Mother was estopped from filing a repetitive petition for child support after she had voluntarily dismissed a child support action against him in 1997. Father also asserts that the 2006 default judgment against him should be reopened because he had never been served with the petition for child support and the judgment,

therefore, was obtained through fraud and a violation of his constitutional right to due process.

(4) We find no merit to Father's appeal. This Court generally reviews the grant or denial of a Rule 60(b) motion for an abuse of discretion.[2] A claim that the trial court employed an incorrect legal standard, however, raises a question of law that this Court reviews *de novo*.[3] The Family Court noted that in order to reopen a judgment that allegedly was secured through fraud under Family Court Civil Rule 60(b)(3), Father had the "heavy burden" of proving "the most egregious conduct involving a corruption of the judicial process itself."[4] In this case, the Family Court did not find Father's claim that he was never served with Mother's 2006 petition for child support to be credible. The special process server had indicated that Father was properly served on July 15, 2006, and Father had offered no credible evidence to prove otherwise. We find no error or abuse in this ruling.

(5) Furthermore, we find no merit to Father's argument that the 2006 judgment should be reopened under Rule 60(b)(4) because it was void. As the Family Court properly found, any prior dismissal of Mother's child support petitions was without prejudice and did not relieve Father of his

[2] *Reynolds v. Reynolds*, 595 A.2d 385, 389 (Del. 1991).
[3] *MCA, Inc. v. Matsushita Elec. Indus. Co.*, 785 A.2d 625, 638 (Del. 2001).
[4] *Id*. at 639.

statutory obligation to support his son.[5] Thus, such a dismissal did not have any estoppel effect on a later petition.[6]

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

[5] DEL. CODE ANN. tit. 13, § 501(c) (2009).
[6] *Beck v. Beck*, 766 A.2d 482, 484 (Del. 2001).