MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brandon E. Klein,
Appellant-Respondent,

v.

Leanne Salatas,
Appellee-Petitioner,

November 6, 2023

Court of Appeals Case No. 23A-DR-1640

Appeal from the Lake Superior Court

The Honorable Bruce D. Parent, Special Judge

Trial Court Cause No. 45D10-1410-DR-744

Memorandum Decision by Judge Mathias
Judges Riley and Crone concur.

Mathias, Judge.

[1] Brandon Klein ("Father") appeals the Lake Superior Court's denial of his Trial Rule 60(B) motion to set aside a default judgment the court entered against him

on Leanne Salatas' ("Mother's") pending motions in this child custody proceeding. Father raises two issues, which we consolidate and restate as whether the trial court abused its discretion when it denied his Trial Rule 60(B) motion.

[2] We affirm.

Facts and Procedural History

[3] Father and Mother married in 2013, had a child together in 2014 ("Child"), and divorced in 2015. The dissolution decree awarded Mother sole physical and legal custody of Child, with Father exercising parenting time and paying child support. But Father did not exercise parenting time. Thereafter, both parties filed various motions, including Mother's motion to relocate to Michigan, Father's motion to enforce parenting time, and Mother's new husband's ("Stepfather's") petition to adopt Child.

[4] The trial court appointed a guardian ad litem ("GAL"), who requested that both parties undergo psychological evaluations. Mother completed her evaluation in August 2020, and Father completed his evaluation in March 2021. The psychologist's report was not favorable to Father.

[5] Following various continuances of a hearing on all pending motions, on October 30, 2022, Father filed a motion to dismiss "all pending matters." Appellee's App. Vol. 2, p. 65. Following a telephonic hearing on November 14, the trial court granted Father's motion to dismiss his pending motions and scheduled a final hearing on Mother's pending motions for January 23, 2023. In

particular, the trial court stated that the following matters would be heard: Mother's petition to modify parenting time; Father's nonpayment of child support; Mother's petition to modify child support; attorney's fees; and Mother's motion for the trial court to lift its "injunction related to the adoption in Michigan."[1] *Id.* at 70. The trial court ordered both Father and Mother to appear.

[6] On January 22, Father filed a motion to continue the January 23 hearing. Father stated that he had Covid-19 and was under quarantine, having been released from the hospital on January 20. The trial court denied that motion and held the hearing in Father's absence.[2] Mother presented evidence in support of her pending motions. The trial court issued its order the same day. The court noted that Mother's petition to relocate had previously been granted; the court found that, based on Father's psychological evaluation, his parenting time would remain suspended; the court found that Father's child support arrearage totaled $38,192, plus interest; the court lifted its stay regarding Stepfather's adoption petition in Michigan; and the court ordered Father to pay attorney's fees to Mother's attorney and the GAL's attorney.

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[1] The trial court had previously issued an injunction to prevent that adoption from proceeding.

[2] The trial court later explained that it did not believe Father given his history of conduct with the court, especially Father's recent dismissal of all of his pending motions, as well as the lack of documentation of his Covid-19 diagnosis.

[7] On February 21, Father filed a motion to correct error. In his motion, Father alleged that the trial court had abused its discretion when it denied his motion to continue the hearing based on his Covid-19 diagnosis. And Father alleged numerous other errors in his sixteen-page motion to correct error. On May 23, the trial court denied that motion following a hearing.

[8] Father timely filed a notice of appeal from the court's denial of his motion to correct error, but Father did not file a brief or otherwise pursue the appeal. Instead, on June 5, Father filed with the trial court a Trial Rule 60(B) motion to set aside the January 23 order. Father argued that he was entitled to relief under Trial Rule 60(B)(1) because of his Covid-19 diagnosis, and he alleged various meritorious defenses. He also argued that he was entitled to relief under Trial Rule 60(B)(8). The trial court denied Father's motion. This appeal ensued.

Discussion and Decision

[9] Father contends that the trial court abused its discretion when it denied his Trial Rule 60(B) motion to set aside the January 23 order. We review the trial court's decision on a Rule 60(B) motion for an abuse of discretion. *State v. Collier*, 61 N.E.3d 265, 268 (Ind. 2016). An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* (quotation marks omitted). A trial court also abuses its discretion if it misinterprets the law. *DePuy Orthopaedics, Inc. v. Brown*, 29 N.E.3d 729, 732 (Ind. 2015).

[10] We do not reach the merits of Father's appeal. It is well settled that Trial Rule 60(B) cannot be used as a substitute for a direct appeal. *See Ind. Ins. Co. v. Ins. Co. of N. Am.*, 734 N.E.2d 276, 279 (Ind. Ct. App. 2000), *trans. denied*; *Cullison v. Medley*, 619 N.E.2d 937, 945 (Ind. Ct. App. 1993), *trans. denied*. In other words, Rule 60(B) does not provide for an end-run around the usual appellate process. *See, e.g.*, *Vazquez v. Dulios*, 505 N.E.2d 152, 154 (Ind. Ct. App. 1987). The issues Father raised in his Trial Rule 60(B) motion were either raised in his motion to correct error or known at that time. He does not direct us to any new issues warranting consideration in a Trial Rule 60(B) motion. *See id.* Father should have pursued a direct appeal from the trial court's denial of his motion to correct error. We affirm the trial court's denial of his motion to set aside the January 23 order.

[11] Affirmed.

Riley, J., and Crone, J., concur.