

IN THE UTAH COURT OF APPEALS

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Carolee McNeil Mascia,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20050763-CA	
v.	)		
	)	F I L E D	
Shawn Christopher Wilde,	)	(March 1, 2007)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2007 UT App 64</td></tr></table>	2007 UT App 64
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Third District, Salt Lake Department, 984906008  
The Honorable Tyrone E. Medley

Attorneys: Shawn Christopher Wilde, Murray, Appellant Pro Se  
Steven C. Russell, Salt Lake City, for Appellee  
Maria Cristina Santana, Salt Lake City, Guardian Ad  
Litem

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Before Judges Bench, Orme, and Thorne.

BENCH, Presiding Judge:

Shawn Christopher Wilde appeals the district court's order denying his motions to set aside two default judgments.<sup>1</sup> This court previously concluded that Wilde's appeal of the underlying judgments was untimely, and therefore, our review is limited to the district court's denial of Wilde's motions under rule 60(b) of the Utah Rules of Civil Procedure. See Utah R. Civ. P. 60(b). "The district court judge is vested with considerable discretion under [r]ule 60(b) in granting or denying a motion to set aside a judgment." Katz v. Pierce, 732 P.2d 92, 93 (Utah 1986). "[B]efore we will interfere with the trial court's exercise of discretion, abuse of that discretion must be clearly shown." Id.

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<sup>1</sup>This court previously requested that the parties brief whether Wilde's 60(b) motions and the district court's order denying Wilde's motions covered both default judgments. The parties failed to adequately brief this issue. Because the requested briefing would not affect our analysis, we assume arguendo that Wilde's motions and the court's order addressed both judgments.

The district court entered two default judgments as the result of Wilde's failure to attend the March 2005 scheduling conference. Wilde filed various motions to set aside the judgments. "[A] party trying to set aside a default judgment must show that he used due diligence and that he was prevented from appearing by circumstances over which he had no control." Heath v. Mower, 597 P.2d 855, 859 (Utah 1979). Wilde submits that a former opposing counsel informed him that the conference would be rescheduled, but the attorney filed an affidavit denying this claim. Further, the district court found that Wilde's failure to appear was willful and part of a consistent pattern of delay. Because Wilde has not shown that he used due diligence to attend the conference, we conclude that the district court did not abuse its discretion in denying Wilde's motions to set aside the default judgments. See id.

Accordingly, we affirm.

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Russell W. Bench,  
Presiding Judge

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WE CONCUR:

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge