Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-435

FEBRUARY TERM, 2005

Michael J. Richards	}	APPEALED FROM:
	}	
	}	
v.	}	Franklin Family Court
	}	
Wendy Raymond	}	
	}	DOCKET NO. 117-4-03 Frdm
		Trial Judge: Thomas J. Devine

In the above-entitled cause, the Clerk will enter:

In this parentage action, father voluntarily relinquished his parental rights in the parties' minor child, E.R. On appeal, father contests the Franklin Family Court's denial of his motion for relief from judgment under V.R.C.P. 60(b). We affirm.

In 1997, father was convicted in federal court for sending obscene material through the mail. The conviction stemmed from correspondence father had with an individual who purported to be a single mother of three children. In 2003, father filed the present action for parentage in Franklin Family Court. Mother filed a cross claim that sought involuntary termination of father's parental rights. Mother argued that father presented a direct threat to E.R. as evidenced by the facts underlying father's federal conviction. The parties engaged in discovery, and a two-day trial was scheduled. Mother planned to call numerous witnesses at trial, including father's probation officer, a federal investigator familiar with the federal proceeding, and father's brother.

On the first day of trial, the parties reached a settlement agreement. The agreement called for father to relinquish his parental rights in E.R. Father executed an affidavit in support of the agreement. He testified that, after careful consideration, he decided termination of his parental rights in E.R. was in the child's best interests. Father stated that he was not coerced or under duress when he agreed to the settlement. The parties reduced their agreement to writing and presented it to the court for approval.

The court accepted the stipulation after addressing father in open court. The court inquired about father's state of mind and whether he understood the seriousness and finality of his decision. Father indicated that his decision was voluntary, that he understood its finality, and that terminating his rights in E.R. would serve the child's best interests.

About one week after the judgment issued, father moved for relief pursuant to Rule 60(b). See V.R.F.P. 4(a)(1) (stating that the rules of civil procedure apply to divorce proceedings and parentage action considered a divorce proceeding for purposes of the rule). Father claimed that he mistakenly entered the stipulation because he was so emotional on the day of trial. Father argued that he was surprised to see his brother in court that day, and that his brother "used strong emotions" to convince father that termination was in the child's best interests. The court denied father's motion, concluding that it had no merit.

Father appeals to this Court, arguing that the family court abused its discretion by denying his motion for relief

from judgment. Ruling on a motion for relief from judgment is committed to the family court's discretion, and we will not disturb the court's ruling absent a showing of abuse. Richwagen v. Richwagen, 153 Vt. 1, 3-4 (1989). Rule 60(b) provides relief in extraordinary circumstances only. John A. Russell Corp. v. Bohlig, 170 Vt. 12, 24 (1999). It does not protect a party from ill-advised tactical decisions, Rule v. Tobin, 168 Vt. 166, 174 (1998), and it will not provide relief from any other "free, calculated, and deliberate choices" the party has made, Estate of Emilo v. St. Pierre, 146 Vt. 421, 424 (1985).

The record does not support father's position that the court abused its discretion by denying his motion. Father's relinquishment of his parental rights was a free, calculated and deliberate choice. Father stated in his affidavit that he gave the issue careful consideration before deciding that relinquishment was in E.R.'s best interests. In both his sworn affidavit and in open court father testified that he understood the nature of his decision, that the decision was final, and that his agreement was not coerced. Although father now asserts that his brother prevailed upon him to sign the stipulation, he did not tell the family court about that pressure when asked him if he had been threatened or coerced to agree to the settlement. Father may now regret his decision to relinquish his rights in E.R., but no legal basis exists to set aside the judgment given the record in this case.

Affirmed.

BY THE COURT:

____
Paul L. Reiber, Chief Justice

____
John A. Dooley, Associate Justice

____
Frederic W. Allen, Chief Justice (Ret.),
Specially Assigned