

31450

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAY 26 2026

Shirley A. Johnson-Lund
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

No. 31450

BRITTANY VANBEEK,
Plaintiff/Appellant,

vs.

ADAM VANBEEK,
Defendant/Appellee.

Appeal from the Circuit Court
Second Judicial Circuit
Lincoln County, South Dakota

The Honorable Patrick T. Power, Judge

BRIEF OF APPELLANT

BRITTANY VANBEEK
47608 Krin Place
Harrisburg, SD 57032
Telephone: (605) 323-5106
BrittanyVanBeek84@gmail.com

ADAM VANBEEK
714 S. Blaine Ave.
Sioux Falls, SD 57104

Defendant/Appellee, Pro Se

Plaintiff/Appellant, Pro Se

Notice of Appeal filed April 10, 2026

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
STATEMENT OF THE CASE	2
STATEMENT OF FACTS	3
ISSUES PRESENTED FOR REVIEW	12
STANDARD OF REVIEW	14
ARGUMENT	15
I. Whether the circuit court erred in declining to grant the divorce on the grounds of extreme cruelty.	15
II. Whether the circuit court abused its discretion in failing to adequately address discovery violations, incomplete financial disclosures, and disputed child support calculations.	17
III. Whether the circuit court erred in failing to adequately consider medical evidence, pulmonology directives, and smoke exposure.	20
IV. Whether the circuit court failed to meaningfully consider substantial portions of the evidentiary record.	22
V. Whether the circuit court's property division and equalization award were inequitable.	24
CONCLUSION	29
APPENDIX INDEX	30
CERTIFICATE OF COMPLIANCE	31
CERTIFICATE OF SERVICE	31

TABLE OF AUTHORITIES

Cases

Cole v. Cole, 384 N.W.2d 312 (S.D. 1986)	
Halbersma v. Halbersma, 2009 S.D. 98, 775 N.W.2d 210	
Hiller v. Hiller, 2018 S.D. 74, 919 N.W.2d 548	
Malcolm v. Malcolm, 365 N.W.2d 863 (S.D. 1985)	
Novak v. Novak, 2006 S.D. 34, 713 N.W.2d 551	
Ochs v. Nelson, 538 N.W.2d 527 (S.D. 1995)	
Osman v. Keating-Osman, 1994 S.D. 107, 518 N.W.2d 351	
Schieffer v. Schieffer, 2013 S.D. 11, 826 N.W.2d 627	
Schwab v. Schwab, 505 N.W.2d 752 (S.D. 1993)	
Sisneros v. Sisneros, 2004 S.D. 60, 680 N.W.2d 108	
Tate v. Tate, 390 N.W.2d 309 (S.D. 1986)	

Statutes

SDCL 15-6-26	
SDCL 15-6-33	
SDCL 15-6-34	
SDCL 15-6-37	
SDCL 15-6-52(a)	
SDCL 15-17-7	
SDCL 25-4-2	
SDCL 25-4-4	
SDCL 25-4-44	
SDCL 25-4A-5	
SDCL 25-7-6.10	
SDCL 25-7-6.26	

INTRODUCTION

[¶1.] Plaintiff and Appellant, Brittany VanBeek (“Brittany”), appeals from the Judgment and Decree of Divorce entered in the Second Judicial Circuit, Lincoln County, South Dakota, following a trial involving evidence of domestic violence, coercive control, financial misconduct, discovery disputes, and grounds for divorce based upon extreme cruelty. The record established that Defendant and Appellee, Adam VanBeek (“Adam”), committed a physical assault against Brittany on April 20, 2024, to which Adam later entered a guilty plea in the related criminal matter. Brittany subsequently obtained a permanent protection order against Adam on September 13, 2024. Despite the existence of evidence of domestic violence, extensive documentary evidence, medical records, sworn testimony, criminal proceedings, the circuit court failed to properly weigh the severity and legal significance of the abuse and its ongoing impact on Brittany and the parties’ children.

[¶2.] The evidence presented throughout the proceedings demonstrated far more than a single isolated incident. The record reflected a continuing pattern of intimidation, coercive control, emotional abuse, manipulation, financial misconduct, discovery noncompliance, and repeated violations of court orders and criminal conditions. Brittany submitted extensive affidavits, medical documentation, communications, text messages, and supplemental filings documenting the escalation of abuse and the resulting physical, neurological, emotional, and financial harm. Among the evidence submitted were communications in which Adam minimized the assault after Brittany informed him she had sustained a concussion, including vulgar and dismissive statements regarding the headbutting incident. The evidence further established that Brittany sustained serious injuries from the assault, including a concussion, post-concussion syndrome, vagus nerve dysfunction, herniated discs, chronic pain, and a fractured tailbone that healed improperly, resulting in chronic pain, ongoing physical limitations, and permanent limitations affecting her ability to work, parent, and perform daily activities.

[¶3.] Nevertheless, the circuit court declined to grant the divorce on the grounds of extreme cruelty and instead entered the divorce on irreconcilable differences. In doing so, the court minimized the evidence of domestic violence and failed to properly account for the corroborated pattern of abuse reflected throughout the record. The court further made

findings regarding credibility, property division, discovery disputes, and child support that Brittany contends were clearly erroneous, unsupported by substantial evidence, inconsistent with the record as a whole, and reached without meaningful consideration of critical evidence previously filed with the court.

STATEMENT OF THE CASE

[¶4.] The proceedings occurred against a backdrop of related criminal and protection-order proceedings arising from the April 20, 2024 assault. The circuit court was repeatedly placed on notice of the abuse, the related criminal proceedings, the permanent protection order, the parties' financial disputes, and ongoing safety concerns involving the minor children.

[¶5.] Brittany was self-represented during substantial portions of the proceedings and repeatedly attempted to place relevant evidence before the circuit court through affidavits, motions, declarations, subpoenas, notices, discovery requests, medical documentation, and sworn testimony. Brittany contends many of those filings were either not meaningfully addressed or were deferred until trial, even where the issues involved child support, financial noncompliance, parenting safety, medical concerns, and discovery disputes.

[¶6.] The circuit court ultimately entered a Judgment and Decree of Divorce granting the divorce on the grounds of irreconcilable differences rather than extreme cruelty, setting child support, allocating parenting-related provisions, denying attorney's fees, and ordering Brittany to make an equalization payment relating in part to the residence she purchased prior to the marriage.

[¶7.] This appeal challenges those rulings and the cumulative effect of the court's findings, omissions, and discretionary decisions, which prejudiced Brittany and resulted in an inequitable judgment unsupported by the full record.

STATEMENT OF FACTS

[¶8.] Brittany VanBeek and Adam VanBeek were married on August 30, 2022, in Lahaina, Hawaii. During the marriage, the parties had minor children together. Throughout much of the marriage, Brittany was primarily responsible for caregiving responsibilities and the day-to-day care of the children. Brittany worked limited night and weekend hours while

remaining home with the children during the day. Following the April 2024 assault and resulting injuries, Brittany's ability to work and perform ordinary daily activities became substantially limited due to ongoing physical and neurological symptoms.

[¶9.] During the course of the marriage, the relationship became increasingly characterized by intimidation, emotional abuse, coercive conduct, financial conflict, and escalating instability. Brittany ultimately informed Adam that the marriage was over after discovering that Adam had lied about being in the military, along with what Brittany contends was an ongoing pattern of deception, escalating verbal abuse, and repeated threats of suicide. Brittany contends the suicide threats repeatedly occurred when she attempted to end the relationship, including incidents involving a firearm. Brittany further contends that Adam frequently portrayed himself as highly skilled in firearms and martial arts and would make concerning statements about knowing how to choke someone unconscious without killing them. According to Brittany, Adam's behavior and body language became increasingly intimidating and volatile throughout the marriage. Brittany alleges Adam would tower over her during arguments, mock her while she was crying, clench his fists, scream, swear, and engage in escalating physical intimidation that caused her to fear physical violence was imminent. Brittany contends she became increasingly fearful of Adam's anger, unpredictability, and explosive outbursts, believing his conduct was escalating toward physical harm. As the marriage deteriorated, the home environment became increasingly volatile and unsafe. Brittany contends there were multiple occasions in which she was forced to remove Adam from the home during the early morning hours due to screaming, swearing, intimidation, and escalating conduct toward both Brittany and the children. On the night Brittany informed Adam that the marriage was over, Brittany contends Adam suddenly stood over her and violently slammed his head into hers, causing the injuries that ultimately gave rise to the related criminal proceedings and Adam's subsequent guilty plea.

[¶10.] On April 20, 2024, Adam returned home after being away fishing. Prior to the assault, Brittany had discovered additional information concerning what she contends were ongoing lies regarding Adam's whereabouts, repeated unexplained disappearances, and his false representations concerning military service. Brittany also had growing suspicions regarding inappropriate communications and conduct involving another woman with whom Adam frequently interacted. Brittany calmly approached Adam inside the marital residence

to discuss the relationship and informed him that the marriage was over. According to Brittany, neither party was yelling during the discussion, and Brittany remained seated across from Adam while speaking with him.

[¶11.] Brittany contends that after she told Adam multiple times that the marriage was over, Adam suddenly stood up as though he were leaving the room, then unexpectedly stepped toward Brittany and violently slammed his forehead directly into hers. Brittany immediately told Adam he needed to leave the residence and questioned why he would do something like that. Brittany contends Adam then began moving toward the kitchen area, at which point Brittany attempted to close a baby gate separating the living room from the kitchen in an effort to prevent further escalation and keep distance between herself and Adam.

[¶12.] Brittany contends that as she attempted to close the baby gate and raised her hands defensively while Adam continued advancing toward her, Adam grabbed Brittany by her right arm and forcefully launched her backward approximately six feet into the couch and then onto the ground. Brittany landed on her left side and immediately felt severe pain in her tailbone area. Brittany contends she was initially unable to move and believed her tailbone had been broken from the impact.

[¶13.] Brittany further contends that after throwing her backward, Adam entered the room where firearms were stored while Brittany remained injured on the floor. Brittany could hear movement and shuffling coming from inside the room and believed Adam may have been retrieving or loading a weapon. Fearing for her safety and believing Adam intended to continue the attack, Brittany managed to reach the staircase and go upstairs in order to retrieve her phone. Brittany contends Adam followed her up the stairs while the children could be heard crying in their bedroom nearby.

[¶14.] After reaching her phone, Brittany immediately contacted 911 and placed the call on speakerphone while continuing to tell Adam he needed to leave the residence. Brittany contends Adam fled the property shortly after hearing the dispatcher on the line, leaving without his phone and driving away without headlights during the late-night hours. Law enforcement later responded to the residence.

[¶15.] Adam did not return until the following afternoon. Brittany again contacted law enforcement and refused to allow Adam back into the residence. Adam was subsequently arrested outside the home. Brittany contends Adam later contacted her shortly after his release from jail despite knowing he was not permitted to do so. Brittany thereafter packed Adam's belongings and arranged for his father to retrieve Adam's vehicle and personal property from the residence.

[¶16.] As a result of the assault, Brittany sustained significant physical injuries, including a concussion, post-concussion syndrome, spinal injuries, chronic pain, and a fractured tailbone/coccyx injury that healed improperly and continues to cause chronic pain and physical limitations. Brittany contends these injuries substantially affected her ability to work, care for the children, drive comfortably, sleep normally, and perform ordinary daily activities following the assault.

[¶17.] Following Adam's arrest, a no-contact order was entered in the related criminal matter. However, Brittany contends the parties were still required to coordinate exchanges involving the children at the marital residence. Under the arrangement permitted by the court, Brittany was expected to leave through one exit while Adam would either wait in his vehicle or enter only after Brittany had departed. Brittany contends Adam repeatedly failed to comply with those boundaries and instead continued entering the residence in ways that caused Brittany significant fear and distress.

[¶18.] According to Brittany, once she began more firmly enforcing the boundaries surrounding the no-contact order and keeping the residence locked, Adam became increasingly hostile and aggressive during exchanges. Brittany contends Adam would pound on the door with his fists when denied immediate entry and would react angrily when she attempted to maintain distance between them. Brittany further contends Adam began bringing a pocket knife into the residence during these interactions. After Brittany expressed fear and requested that Adam stop bringing the knife into the home, Adam allegedly responded aggressively and dismissively.

[¶19.] Brittany further contends that during one evening following work, she returned home believing Adam had already left the residence after parenting time with the children. According to Brittany, Adam told the children goodbye and acted as though he was leaving

the home. Brittany remained upstairs for approximately twenty minutes putting the children to bed. When Brittany later returned downstairs, she discovered Adam standing silently in the dark living room with no television or lights on, watching the children's monitor. Brittany contends she was startled and frightened by the encounter and asked Adam why he was still inside the residence after pretending to leave. According to Brittany, Adam did not respond and instead silently turned and walked out of the home.

[¶20.] Brittany thereafter sought and obtained a permanent protection order, which was granted on September 13, 2024. Brittany further contends that after she testified against Adam during the related criminal proceedings, Adam threatened to stop financially assisting with the children if Brittany appeared and testified at the hearing. According to Brittany, Adam followed through on that threat after Brittany participated in the criminal proceedings. Brittany subsequently filed for divorce in August 2024.

[¶21.] Brittany contends that in the months following the assault and prior to the issuance of the permanent protection order, additional events occurred that intensified her fear for her safety and the safety of the children. According to Brittany, Adam's sister, Lisa, contacted her and pleaded with Brittany not to allow Adam back into the residence. Brittany contends Lisa stated she was fearful that she would receive a phone call that there had been "a massacre" involving Brittany and the children and further warned Brittany by stating, "What if he just killed the kids?" Brittany contends the conversation profoundly impacted her understanding of the seriousness and volatility of the situation and reinforced her fear that Adam posed a danger to both Brittany and the children.

[¶22.] Brittany further contends that when she later asked Lisa to testify concerning those statements and related events, Lisa refused and instead threatened to disclose information Brittany believed was intended to intimidate or discourage her from pursuing the matter further. Brittany reported the incident to authorities and retained communications relating to the exchange.

[¶23.] Brittany additionally contends Adam engaged in ongoing intimidation and psychologically concerning conduct following the assault and separation. According to Brittany, Adam made alarming statements suggesting that individuals close to him had the means or ability to harm others on his behalf and made threatening comments toward

Brittany, including statements that he was “going to drop a bomb” on her. Brittany further contends that while she was working, Adam would intentionally engage in intimidating gestures and behavior toward home security cameras he knew Brittany could remotely access while he was caring for the children inside the residence. Brittany contends the behavior was intended to frighten and psychologically intimidate her during the separation period.

[¶24.] Brittany further contends that during communications following the separation, Lisa repeatedly behaved as though their conversations were being overheard or monitored. According to Brittany, Lisa would abruptly begin yelling during phone conversations as though Adam or their father could hear the discussion despite Brittany being alone inside her own residence. Brittany contends Lisa warned her that information discussed privately during their calls was somehow immediately known by Adam and other family members afterward, causing Brittany to fear that her communications, residence, or devices may have been monitored or compromised. Brittany contends these incidents further contributed to her fear, emotional distress, and belief that the situation surrounding Adam and his family was escalating beyond ordinary divorce- related conflict.

[¶25.] Brittany served written discovery requests upon Adam, including interrogatories and requests for production seeking financial records, bank statements, employment information, and documentation relevant to child support, marital assets, and related financial issues. Brittany contends Adam repeatedly failed to fully comply with discovery obligations throughout the proceedings and selectively produced only portions of requested financial materials despite repeated requests for supplementation and court intervention.

[¶26.] Brittany, who was self-represented during substantial portions of the proceedings, sought and received a brief extension to complete her own discovery responses while attempting to prepare the materials without counsel. Brittany contends she completed her responses in good faith and supplemented information to the best of her ability. According to Brittany, no objections or deficiency claims were raised concerning her discovery responses for approximately four months following service, and the alleged deficiencies were raised only after Brittany subpoenaed Adam’s mother’s employment records relating to the supervised visitation violation.

[¶27.] Brittany further contends that despite Adam's ongoing failure to fully produce requested discovery materials, including bank records and financial documentation, opposing counsel later began asserting that Brittany's discovery responses were deficient without specifically identifying what information remained incomplete or providing Brittany a meaningful opportunity to cure any alleged deficiencies. Brittany contends the court disproportionately focused on alleged deficiencies in her responses while minimizing or disregarding Adam's continued failure to fully comply with financial discovery obligations.

[¶28.] During the pend-ency of the proceedings, supervised visitation was initially ordered by the court. Brittany contends Adam requested substantially expanded parenting time, including full weekends with the children. According to Brittany, the circuit court expressly stated on the record that it would not permit Adam to exercise an entire weekend of parenting time because the children were too young and too small to protect or defend themselves. The court instead limited Adam's parenting time to one overnight visit at that stage of the proceedings.

[¶29.] Brittany further contends that the very first supervised visitation did not occur in compliance with the court's supervision requirements. According to Brittany, Adam's mother had been designated as the supervising party for the visit, but Brittany later obtained and subpoenaed employment records demonstrating that Adam's mother was allegedly working at a bar during the time she was supposed to be supervising the visit. Brittany contends she submitted the subpoenaed records and related information to the circuit court as evidence that the supervised visitation order had been violated immediately upon implementation.

[¶30.] Brittany contends the circuit court failed to meaningfully address or acknowledge the alleged violation of the supervision requirement despite the subpoenaed employment records. According to Brittany, the court later expanded Adam's parenting time without discussing the alleged violation or making findings regarding the evidence Brittany submitted concerning the lack of supervision during the initial visit.

[¶31.] The divorce trial proceeded following extensive pretrial litigation involving discovery disputes, financial disclosure issues, parenting disputes, and allegations of domestic violence and coercive control. During substantial portions of the proceedings,

Brittany was self-represented and made repeated efforts to place critical evidence before the circuit court through affidavits, motions, exhibits, subpoenas, medical documentation, and sworn testimony.

[¶32.] Brittany contends the circuit court failed to consider substantial portions of the evidentiary record despite the volume of materials filed throughout the proceedings. According to Brittany, many of the concerns repeatedly raised through sworn filings, including issues relating to discovery noncompliance, financial concealment, parenting concerns, medical directives concerning the children, and violations of prior court orders, were either minimally addressed or omitted from the court's findings altogether.

[¶33.] Brittany further contends she was limited in her ability to fully present her testimony and evidence during trial. According to Brittany, when she attempted to read from a written declaration summarizing the abuse and relevant events, the circuit court instead encouraged her to summarize the information rather than present it in full. Brittany contends opposing counsel was permitted broader narrative presentation throughout the proceedings while Brittany's own attempts to fully explain the history of abuse, coercive control, discovery issues, and financial misconduct were frequently curtailed or minimized.

[¶34.] Brittany additionally contends the circuit court made comments during the proceedings reflecting a misunderstanding of domestic violence dynamics and coercive control. Among other things, Brittany contends the court suggested Brittany was "too smart" to have married someone abusive and appeared to interpret Brittany's attempts at reconciliation following portions of the abuse as inconsistent with the seriousness of the violence and intimidation Brittany described throughout the proceedings.

[¶35.] Brittany further contends that after summarizing portions of her declaration concerning the abuse and escalating conduct throughout the marriage, the circuit court questioned whether the behavior Brittany described sounded more consistent with potential mental illness. Brittany contends the court's comments reflected a broader pattern throughout the proceedings in which the seriousness of the abuse, intimidation, coercive conduct, and resulting fear were reframed or minimized rather than evaluated within the context of domestic violence and extreme cruelty.

[¶36.] Despite Adam's guilty plea related to the April 2024 assault, the issuance of a permanent protection order, extensive testimony regarding intimidation and coercive conduct, and corroborating medical evidence concerning Brittany's injuries, the circuit court declined to grant the divorce on the grounds of extreme cruelty and instead entered the divorce on irreconcilable differences. The court's findings minimized both the physical assault and the broader pattern of coercive and intimidating conduct reflected throughout the record.

[¶37.] Brittany further contends the circuit court repeatedly deferred resolution of financial and child support disputes despite ongoing allegations that Adam failed to fully disclose income, banking information, and financial records during discovery. According to Brittany, Adam admitted at trial to performing cash work outside reported employment and acknowledged transferring marital assets, including a vehicle, into his father's name. Brittany contends the circuit court nevertheless failed to adequately address the incomplete financial disclosures or correct child support calculations Brittany repeatedly argued were based upon inaccurate income information.

ISSUES PRESENTED FOR REVIEW

1. Whether the circuit court erred in declining to grant the divorce on the grounds of extreme cruelty despite evidence of domestic violence, a related guilty plea, a permanent protection order, corroborating testimony, and evidence of ongoing coercive control and intimidation.
2. Whether the circuit court abused its discretion in failing to adequately address ongoing discovery disputes, incomplete financial disclosures, and disputed child support calculations despite repeated motions and evidence presented throughout the proceedings.
3. Whether the circuit court erred in failing to adequately consider medical evidence, pulmonology directives, and evidence relating to the children's exposure to secondhand and thirdhand smoke in determining parenting-related issues.
4. Whether the circuit court failed to consider substantial portions of the evidentiary record and testimony presented throughout the proceedings, resulting in clearly erroneous findings inconsistent with the record as a whole.
5. Whether the circuit court's property division, equalization payment, payment timeline, and denial of attorney's fees were clearly erroneous, inequitable, or an abuse of discretion in light of the short marriage, premarital residence, incomplete financial disclosures, litigation delay, domestic violence, and Brittany's reduced earning capacity.

STANDARD OF REVIEW

[¶38.] Findings of fact made by the circuit court are reviewed under the clearly erroneous standard. SDCL 15-6-52(a). "A finding is clearly erroneous when, although evidence supports it, the reviewing court is left with a definite and firm conviction that a mistake has been made." *Tate v. Tate*, 390 N.W.2d 309, 310 (S.D. 1986).

[¶39.] Questions involving discovery rulings, evidentiary rulings, child support determinations, custody or parenting decisions, attorney-fee determinations, and other discretionary decisions of the circuit court are generally reviewed for abuse of discretion. See *Hiller v. Hiller*, 2018 S.D. 74, ¶ 15, 919 N.W.2d 548, 553; *Schieffer v. Schieffer*, 2013 S.D. 11, ¶ 13, 826 N.W.2d 627, 633.

[¶40.] To the extent the issues raised on appeal involve statutory interpretation, the meaning of SDCL 25-4-2, SDCL 25-4-4, SDCL 25-4-44, SDCL 15-6-37, or the application of legal standards governing divorce grounds, discovery, property division, or attorney's fees, review is de novo.

ARGUMENT

I. Whether the circuit court erred in declining to grant the divorce on the grounds of extreme cruelty

[¶41.] South Dakota law expressly recognizes extreme cruelty as grounds for divorce. SDCL 25-4-2(2). "Extreme cruelty" is statutorily defined as "the infliction of grievous bodily injury or grievous mental suffering upon the other, by one party to the marriage." SDCL 25-4-4.

[¶42.] South Dakota appellate courts have long recognized that extreme cruelty encompasses both physical violence and grievous mental suffering within the marital relationship. See *Osman v. Keating-Osman*, 1994 S.D. 107, ¶ 18, 518 N.W.2d 351, 354; *Tate*, 390 N.W.2d at 310. The determination must be evaluated within the context of the parties' relationship and surrounding circumstances.

[¶43.] The evidence before the circuit court included Adam's guilty plea arising from the April 20, 2024 assault, Brittany's sworn testimony regarding the assault and resulting injuries, the issuance of a permanent protection order, evidence of intimidation and coercive conduct throughout the marriage, and extensive testimony concerning Brittany's fear for her safety and the safety of the children. (Trial Tr. 3-4; Permanent Protection Order, Sept. 13, 2024; Judgment and Decree at 1.)

[¶44.] Despite this evidence, the circuit court declined to grant the divorce on the grounds of extreme cruelty and instead entered the divorce on irreconcilable differences. (Judgment and Decree at 1; Trial Tr. 3-4.) Brittany contends the circuit court improperly minimized both the physical assault and the broader pattern of coercive and intimidating conduct reflected throughout the record despite evidence of domestic violence, Adam's related guilty plea, and the issuance of a permanent protection order arising from the same underlying conduct. 18

[¶45.] Brittany further contends the circuit court's reasoning reflected a misunderstanding of domestic violence dynamics and coercive control. During the proceedings, the circuit court questioned whether the conduct Brittany described sounded more consistent with potential mental illness and further suggested Brittany. The transcript stated " I think Brittany is too smart to marry someone who is consistently engaged into what the law views as extreme cruelty, nor do I think she would have pursued reconciliation with Adam after that incident if his behavior during that incident was how he consistently behaved." (Trial Tr. 3-4.) Brittany contends such reasoning improperly re-framed or minimized the evidence of abuse and failed to adequately account for coercive control, intimidation, trauma responses, reconciliation dynamics, and escalating domestic violence.

[¶46.] The circuit court additionally appeared to place significance on Brittany's prior attempts to reconcile or maintain portions of the relationship following earlier incidents of abuse. However, reconciliation attempts, trauma responses, financial dependence, fear, and efforts to preserve the family unit are not inconsistent with domestic violence and do not negate the existence of extreme cruelty. Brittany contends the court's findings failed to properly evaluate the totality of the circumstances presented throughout the proceedings. When viewed as a whole, the record demonstrated substantially more than ordinary marital discord or incompatibility and was sufficient to establish extreme cruelty under SDCL 25-4-2(2) and SDCL 25-4-4.

II. Whether the circuit court abused its discretion in failing to adequately address discovery violations, incomplete financial disclosures, and disputed child support calculations.

[¶47.] Throughout the proceedings, Brittany repeatedly raised concerns regarding incomplete financial disclosures, selective production of banking records, disputed income calculations, and Adam's ongoing failure to fully comply with discovery obligations. Brittany contends the circuit court failed to adequately address those deficiencies despite repeated motions, subpoenas, supplemental filings, and requests for court intervention. Discovery obligations and enforcement mechanisms exist to prevent prejudice caused by incomplete production. See SDCL 15-6-26; SDCL 15-6-33; SDCL 15-6-34; SDCL 15-6-37.

[¶48.] Brittany served interrogatories and requests for production seeking financial records, employment information, banking records, and documentation relevant to child support and marital assets. According to Brittany, Adam repeatedly produced incomplete or selective materials, including partial bank statements and incomplete financial documentation. Brittany further contends Adam failed to fully disclose income sources and later admitted at trial to performing cash work outside reported employment.

[¶49.] Brittany additionally contends Adam dissipated marital assets during the proceedings, including transferring a marital vehicle into his father's name. Brittany further contends Adam liquidated retirement funds during the pendency of the litigation while failing to fully account for where those funds were spent despite repeated discovery requests seeking that information.

[¶50.] Brittany repeatedly argued that the temporary child support calculations were based upon inaccurate and incomplete income information. According to Brittany, Adam initially provided only limited wage documentation despite prior disclosures reflecting additional income information. Brittany contends the circuit court acknowledged during earlier proceedings that discovery could potentially alter the child support calculations and indicated the matter could be revisited if additional financial information was uncovered. However, Brittany contends the court repeatedly deferred or denied requests to correct the calculations despite ongoing discovery disputes and continued allegations of incomplete disclosure. See *Ochs v. Nelson*, 538 N.W.2d 527 (S.D. 1995); *Sisneros v. Sisneros*, 2004 S.D. 60, 680 N.W.2d 108.

[¶51.] Brittany further contends that although opposing counsel later criticized portions of Brittany's own discovery responses, no objections or alleged deficiencies were raised concerning Brittany's responses for approximately four months after service, and only after Brittany subpoenaed Adam's mother's employment records relating to the supervised visitation violation. Brittany contends she completed and supplemented her responses in good faith while self-represented and repeatedly attempted to comply with requests made throughout the proceedings. Brittany further contends opposing counsel frequently asserted her responses were deficient without clearly identifying what additional information was allegedly required.

[¶52.] Brittany additionally filed motions seeking sanctions and court intervention concerning discovery noncompliance. Brittany contends the circuit court nevertheless minimized the significance of the discovery issues despite the ongoing disputes involving financial records, income information, asset disclosures, and incomplete production throughout the litigation. Brittany further contends the circuit court stated "In my opinion, Mr. VanBeek's responses were not sufficiently tardy or incomplete compared to what I see in other family law cases to justify monetary sanctions at this time" when denying her Motion for Sanctions despite the prolonged unresolved discovery disputes. (Email correspondence dated December 17, 2025)

[¶53.] Brittany further contends the circuit court was repeatedly placed on notice that discovery remained incomplete and that unresolved financial documentation continued to materially affect the proceedings. In correspondence dated November 6, 2025, the circuit court acknowledged that "both parties are now in position to quickly finalize their document productions" and further warned that "continuing a trial because one side has not provided material information is a bad outcome for all concerned, including the Court." (Email Correspondence dated Nov. 6, 2025.) Brittany contends the circuit court nevertheless proceeded toward trial despite ongoing disputes involving incomplete financial disclosures, missing financial records, and unresolved discovery deficiencies materially affecting child support, property division, and related financial determinations.

[¶54.] Brittany additionally filed a Motion for Sanctions on October 15, 2025, concerning ongoing discovery noncompliance. Brittany later filed a Notice of Opposing Counsel's Non- Response and Request for Court Intervention after more than sixty days passed without response or resolution of the pending motion. (Notice of Opposing Counsel's Non-Response, filed Dec. 17, 2025.) Brittany contends the continued lack of enforcement or meaningful judicial intervention prejudiced her ability to fully and fairly litigate financial and child support issues central to the proceedings.

[¶55.] Viewed collectively, the discovery issues materially affected the circuit court's ability to accurately evaluate child support, property division, credibility, and financial issues central to the case. The circuit court abused its discretion by failing to adequately enforce discovery obligations or meaningfully address the resulting prejudice caused by incomplete financial disclosure.

III. Whether the circuit court erred in failing to adequately consider medical evidence, pulmonology directives, and evidence relating to secondhand and thirdhand smoke exposure.

[¶56.] During the proceedings, Brittany repeatedly raised concerns regarding the children's exposure to secondhand and thirdhand smoke while in Adam's care and presented evidence concerning the children's worsening respiratory symptoms and medical diagnoses. Brittany contends both children were ultimately diagnosed with reactive airway disease and required inhalers, nebulizer treatments, urgent medical care, and ongoing pulmonary treatment.

[¶57.] Brittany further contends the children's pulmonologist issued medical directives stating that the children should not be exposed to secondhand or thirdhand smoke due to the progression of their respiratory symptoms and medical conditions. Brittany repeatedly presented those concerns to the circuit court together with evidence she contends demonstrated ongoing violations of the medical recommendations.

[¶58.] According to Brittany, the residence where Adam exercised parenting time with the children had been heavily smoked in for decades by multiple household members. Brittany contends that even during the marriage, both parties recognized the severity of the smoke exposure within the residence and intentionally avoided bringing the children inside the home because of the conditions present there. Brittany further contends the children repeatedly returned from parenting time smelling strongly of cigarette smoke and that daycare providers also documented concerns regarding the odor of smoke on the children and their belongings. Brittany additionally submitted testing and documentation which she contends confirmed significant smoke exposure despite the pulmonologist's directives and ongoing medical concerns.

[¶59.] Brittany further supplemented the record with additional toxicology evidence following the circuit court's September 25, 2025 smoking restrictions order. In December 2025, Brittany filed certified toxicology reports reflecting repeated positive urine 3-hydroxy-cotinine testing results for both minor children occurring after the pulmonologist's directives and after entry of the court's smoking restrictions. (Notice of Supplemental Evidence Regarding Medical Noncompliance, filed Dec. 21, 2025.) Brittany contends the objective

toxicology evidence corroborated her ongoing concerns regarding continued secondhand smoke exposure despite the medical directives and court orders already in place.

[¶60.] Brittany contends the continued positive toxicology results, combined with the children's reactive airway diagnoses, pulmonology directives, daycare concerns, inhaler and nebulizer treatment requirements, and repeated smoke-related symptoms, demonstrated ongoing medical noncompliance that was not adequately addressed by the circuit court despite the objective medical evidence presented throughout the proceedings.

[¶61.] The circuit court's failure to adequately consider the pulmonology directives, medical evidence, and repeated evidence of continued smoke exposure was inconsistent with the children's documented medical needs and failed to properly prioritize the children's health, safety, and best interests. See Schieffer, 2013 S.D. 11, ¶ 13, 826 N.W.2d at 633.

IV. Whether the circuit court failed to meaningfully consider substantial portions of the evidentiary record.

[¶62.] Brittany contends the circuit court repeatedly failed to meaningfully address substantial portions of the evidentiary record despite extensive filings, sworn testimony, exhibits, subpoenas, medical evidence, and supplemental materials submitted throughout the proceedings. According to Brittany, numerous concerns raised repeatedly through affidavits, motions, and testimony were either omitted from the court's findings entirely or addressed only minimally despite their significance to custody, child support, credibility, and the grounds for divorce.

[¶63.] Brittany further contends the cumulative effect of the court's rulings reflected a broader pattern of minimizing or disregarding evidence relating to domestic violence, coercive control, intimidation, financial noncompliance, discovery disputes, and the children's medical needs. Brittany contends the circuit court repeatedly deferred or declined to fully address issues involving incomplete discovery, disputed financial disclosures, parenting concerns, supervision violations, and continued smoke exposure despite the evidence presented throughout the litigation.

[¶64.] Brittany additionally contends the circuit court failed to adequately address evidence relating to intimidation and coercive conduct occurring during the litigation itself. Prior to protection-order proceedings in April 2025, Brittany contends statements were made

through counsel indicating that if Brittany agreed to dismiss the protection order, Adam would refrain from seeking additional custody of the children. Brittany contends substantially similar statements were made on more than one occasion, including shortly before a scheduled hearing and in the presence of Brittany's daughter. Brittany reported the conduct both to the court and to the State Bar after being advised by prosecutors to do so. Brittany contends no meaningful corrective action was taken.

[¶65.] Brittany further contends she reasonably believed many of the underlying facts relating to the assault and resulting injuries had already been established through the criminal proceedings, Adam's guilty plea, the protection-order proceedings, and extensive prior filings throughout the litigation. Brittany nevertheless testified extensively during trial concerning her injuries, symptoms, ongoing treatment, physical limitations, fear, and the continuing impact of the assault on her daily functioning and ability to work and parent.

[¶66.] Brittany contends that portions of her testimony regarding her ongoing injuries and symptoms were met with skepticism and dismissiveness during trial despite Adam's guilty plea related to the assault and Brittany's ongoing treatment following the incident. Brittany testified concerning chronic pain, post-concussion symptoms, neurological issues, vagus nerve dysfunction, and resulting limitations affecting her ability to work and perform ordinary daily activities.

[¶67.] When viewed cumulatively, the court's repeated minimization of domestic violence evidence, discovery disputes, medical evidence, financial disputes, intimidation concerns, and parenting-related safety issues resulted in findings that were clearly erroneous and inconsistent with the full evidentiary record presented throughout the proceedings. See *Tate v. Tate*, 390 N.W.2d 309, 310 (S.D. 1986); *Osman v. Keating-Osman*, 1994 S.D. 107, ¶ 18, 518 N.W.2d 351, 354.

V. Whether the circuit court's property division, equalization award, and related financial findings were inequitable and resulted in unjust enrichment.

[¶68.] When a divorce is granted, South Dakota law permits the circuit court to make an equitable division of property belonging to either or both parties, regardless of title, but the division must be equitable under the circumstances of the parties. SDCL 25-4-44. Principal factors in property division include the length of the marriage, the value of the property, the

age and health of the parties, their earning capacity, their contributions to the accumulation of property, and the income-producing capacity of the parties' assets. See *Cole v. Cole*, 384 N.W.2d 312, 313 (S.D. 1986); *Novak v. Novak*, 2006 S.D. 34, 713 N.W.2d 551; *Halbersma v. Halbersma*, 2009 S.D. 98, 775 N.W.2d 210.

[¶69.] The circuit court's property division and equalization findings were materially affected by incomplete financial disclosures, unresolved discovery disputes, disputed income information, and Adam's failure to fully account for marital assets and expenditures throughout the proceedings.

[¶70.] Brittany further contends the circuit court failed to adequately account for the unusually short duration of the marriage, the premarital nature of significant assets, and the substantial inequity resulting from the equalization award itself. Brittany purchased and owned the marital residence prior to meeting Adam and had independently maintained the property for years before the marriage. Brittany contends she alone managed the property, including lawn care, snow removal, tree trimming, maintenance, upkeep, and financial responsibilities associated with the residence both before and after the marriage.

[¶71.] Brittany further contends the circuit court improperly attributed disproportionate significance to Adam's occasional assistance with lawn mowing and snow removal when evaluating the equalization award. According to Brittany, the Judgment and Decree specifically referenced Adam's assistance with mowing and snow removal as contributing to Brittany's ability to retain the property. Brittany contends this finding failed to accurately reflect the reality that Brittany independently maintained and preserved the property before the marriage, throughout the marriage, and after separation, including while suffering from substantial physical injuries resulting from the assault.

[¶72.] The resulting equalization award constituted unjust enrichment by granting Adam a disproportionate financial benefit arising from premarital property acquired and maintained independently by Brittany both before and after the marriage, despite the short duration of the marriage, incomplete financial disclosures, dissipation concerns raised throughout the proceedings, and the substantial financial and physical harm Brittany sustained following the assault. The equalization award itself was inequitable and unsupported by the evidence presented.

[¶73.] Brittany additionally contends the prolonged litigation and repeated discovery delays substantially benefited Adam financially while materially prejudicing Brittany. According to Brittany, unresolved criminal proceedings, delayed financial disclosures, incomplete discovery production, and repeated postponements extended the litigation for a significant period of time while Brittany continued suffering the financial consequences of the assault, reduced earning capacity, medical limitations, and ongoing legal expenses.

[¶74.] Brittany further contends the circuit court acknowledged the significant impact Brittany's injuries had upon her financial circumstances and ability to work, yet nevertheless imposed an equalization payment structure requiring Brittany to satisfy a substantial financial obligation within an extremely limited timeframe or risk losing the residence she purchased prior to the marriage. Brittany contends the resulting financial burden was inequitable under the circumstances presented throughout the proceedings.

[¶75.] The combined effect of the delayed proceedings, incomplete discovery, disputed financial information, dissipation concerns, unequal financial burdens, and equalization payment structure resulted in unjust enrichment to Adam and inequitable financial findings inconsistent with both the evidence and the equities of the case.

[¶76.] Brittany further contends the circuit court acknowledged during the proceedings that the equalization amount ordered was only a fraction of what could have potentially been awarded under the court's broader valuation approach. Nevertheless, Brittany contends the resulting equalization award remained inequitable given the short duration of the marriage, the premarital nature of the residence, the financial impact of Brittany's injuries, the ongoing discovery disputes, and Adam's alleged financial noncompliance throughout the litigation.

[¶77.] Brittany additionally requested attorney's fees during the proceedings and sought only a limited contribution toward the substantial legal expenses incurred throughout the litigation. Brittany contends the divorce proceedings arose directly from the April 2024 assault, the resulting domestic violence, and the extensive litigation that followed. Brittany further contends the prolonged proceedings, repeated discovery disputes, criminal proceedings, and related litigation substantially increased the financial burden imposed upon her while she was simultaneously dealing with ongoing medical treatment, physical limitations, reduced earning capacity, and parenting responsibilities.

[¶78.] SDCL 15-17-7 permits attorney-fee awards in divorce matters. South Dakota courts consider the parties' relative financial condition, the relative fault of the parties in prolonging litigation, the complexity of the issues, whether briefs were required, and whether the case was appealed. See Schwab v. Schwab, 505 N.W.2d 752 (S.D. 1993); Osman, 1994 S.D. 107, ¶ 47, 518 N.W.2d at 361; Malcolm v. Malcolm, 365 N.W.2d 863, 866 (S.D. 1985).

[¶79.] Brittany contends the circuit court nevertheless denied her request for attorney's fees despite the circumstances surrounding the dissolution, the domestic violence underlying the proceedings, the disparity in litigation burdens experienced throughout the case, and the substantial financial hardship Brittany contends she experienced following the assault and during the prolonged litigation process.

[¶80.] Brittany further contends the circuit court failed to adequately consider the parties' substantially different financial circumstances when imposing the equalization payment structure and denying attorney's fees. According to Brittany, Adam continued residing with his parents throughout the litigation and did not carry the same mortgage obligations, housing expenses, or substantial financial responsibilities Brittany was required to maintain in order to preserve the residence she purchased prior to the marriage.

[¶81.] Brittany additionally contends substantial portions of Adam's litigation expenses and attorney's fees were paid or assisted by family members and others supporting him throughout the proceedings, while Brittany remained financially responsible for maintaining the residence, supporting the children, addressing ongoing medical treatment, and attempting to recover financially and physically following the assault.

[¶82.] Brittany further contends the circuit court acknowledged during the proceedings that Brittany's injuries had significantly affected her ability to work and that she would likely require time before returning to full-time employment. Brittany nevertheless contends the court imposed an equalization timeline requiring her to satisfy a substantial financial obligation within a limited period of time despite the acknowledged impact of her injuries, reduced earning capacity, ongoing medical limitations, and financial hardship.

[¶83.] Brittany additionally testified and presented evidence concerning ongoing trauma-related symptoms following the assault, including diagnoses of Complex Post-

Traumatic Stress Disorder (“CPTSD”) by trauma-informed therapists. Brittany contends the cumulative financial and emotional burden imposed throughout the litigation was not adequately accounted for in the circuit court’s financial rulings, equalization structure, or denial of attorney’s fees.

[¶84.] The combined effect of the equalization award, compressed repayment structure, denial of attorney’s fees, incomplete financial disclosures, and the parties’ unequal financial circumstances resulted in inequitable financial findings inconsistent with the evidence and equities presented throughout the proceedings.

CONCLUSION

[¶85.] Brittany respectfully contends the circuit court’s findings and conclusions were clearly erroneous, unsupported by the full evidentiary record, and materially affected by the court’s failure to adequately address domestic violence, coercive control, discovery disputes, incomplete financial disclosures, medical evidence relating to the children, and substantial evidence presented throughout the proceedings.

[¶86.] Brittany further contends the circuit court improperly minimized the severity and legal significance of the April 2024 assault, the resulting injuries, the permanent protection order, and the broader pattern of intimidation and coercive conduct reflected throughout the record. Brittany additionally contends the court failed to adequately enforce discovery obligations or fully consider evidence relating to child support, financial disclosures, parenting concerns, the children’s documented medical needs, and the financial impact of Brittany’s injuries following the assault.

[¶87.] Brittany therefore respectfully requests that this Court reverse the denial of extreme cruelty grounds, reverse the circuit court’s equalization award relating to the premarital residence, and remand for reconsideration of property division consistent with the equities of the case and principles preventing unjust enrichment. Brittany further requests reconsideration of child support, attorney’s fees, and parenting findings relating to smoke exposure and medical evidence, together with such additional relief as this Court deems just and proper.

Dated this 26th day of May, 2026.

Respectfully submitted,

/s/ Brittany VanBeek

BRITTANY VANBEEK

Plaintiff and Appellant, Pro Se

47608 Krin Place

Harrisburg, SD 57032

605-323-5106

BrittanyVanBeek84@gmail.com