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APR 07 2025

Shirley A. Johnson Legal
Clerk

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2. Case: State of South Dakota
Case Civ number 24-289 false claim of default- there was no default.
3. Relief sought: reverse judgement of Abigail Howard, judge. Restore my U. S, Constitutional rights to the quiet enjoyment of my home, Keep the city off of my property . End their harassment . Pay me \$350,000. 14th Ammendment.
4. Legal issue: no notice or service of court hearing, No default ; no due process. Complaint by city is untrue- a lie. Judge alleged it was true, Obvious set up, The notice was found tossed on my step, not served. Located uner ice and snow a few days before court date.
5. Statement Of the case: There is no default by myself. Contacts to the city attorney were unanswered when I asked if there was anything else I should do or I would assume the matter to be concluded, No response from the city attorney; who has retired from Brookings, SD still active in Volga ,SD since the filing of this appeal,
6. An argument: all requests to me were met. The filing of a court hearing were without merit actually harassment and not true.
- 7, Conclusion: Remedy and relief: reverse ruling of Third Judicial Court.
Restore: quiet enjoyment of my property to me, Pay me \$350,000.00 in cash, American currency.
- 8,Signed copy of the brief.

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2025 I served a true and correct copy of the foregoing

Notice of Appeal by depositing a copy thereof in the United States of America mail . First Class.
Including return receipt by certifying prepaid by myself to the following persons, to wit:

City of Brookings

Attorney: Steven Britzman

521 Sixth Street acting as city attorney Brookings,

South Dakota

from Karen Rae Korkow

OSCW 24-289

February 21, 2025

Karen Rae Korkow

*Case
05 CIV 24-289*

FILED

FEB 21 2025

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
3RD CIRCUIT CLERK OF COURT

By _____

2.

05 CIV 24-289

STATE OF SOUTH DAKOTA

COUNTY OF BROOKINGS

city of BROOKINGS to:

SOUTH DAKOTA SUPREME COURT

OSCIU 24-289

On this date of February 21, 2025

Signet Karen Rae Korkow

Filing for an appeal.

bond /paid.

In court on February 19, 2025

copy of proceeding is included.

Cash fees and
KAREN RAE KORKOW

*Filed
Feb 21, 2025*

In the case referenced I am asking for a review of this "judgement" with the request for "remedy and relief" so that the United States Constitution may be upheld in regard to "the quiet enjoyment of my home."

I am saying, according also to Federal rules of evidence, MAY I BE HEARD?

In court at Brookings, South Dakota many errors of procedure were a cause of the necessity of requesting this review to reveal the truth, which is not reflected in the false accusations by Steven Britzman, City of Brookings, in his wrongly motivated "complaint".

1. There was not a "due process" in appearing at the court I asked the "judge": May I make an opening argument? The "honorable" Abigale A. Howard said "no".

I said: May I present a brief? She asked if I had given a copy to attorney Britzman? I said:

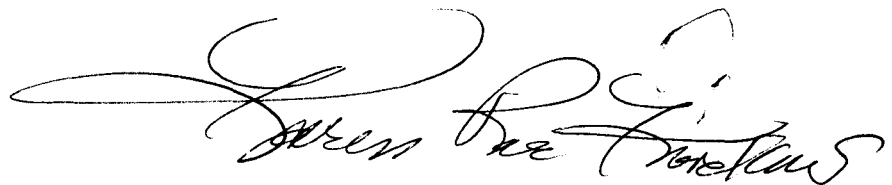
"Yes". She said: "no". This included photos showing the requested "improvement" this was inspected by Steven Britzman and complimented to me by Sara Keiser of code enforcement.

Then I called his office twice after that and I asked is this concluded? Is there anything else I

3.

should do? There was no reply from Steven Britzman atty at that time. Further; about due process in court: I said: May I speak? The ludge Abigale Howard said "no", Then Mr. Britzman said his allegation and she promptly ruled in his favor as he said she would in a previous phone conversation.

This does not constitute a fair hearing or an impartial hearing of the truth and facts of reality which is some of the values that I and I believe the American people expect in this government "of the people, by the people and for the people". In this state where under God the people rule is the SOUTH DAKOTA state Motto, We the people spend alt of money on the department of Justice hoping that honesty and fair discernment is a product for the people and to maintain our sense of order and our personal security is protected for us, In very accurate reality the assertion of Steven Britzman in this complaint is untrue, The improper evaluation by the judge is in error of the reality of the real truth which is that I did meet the request of the city and that they must cease and desist.


February 21, 2025

4.

I am attaching a copy of the court hearing information: Brookings' South Dakota. I was not Allowed to present a brief to the judge even though I had given a copy to Steve Britzman. I have Availability of witnesses and proof that his allegation presented is without merit and not based In truth.

The judge did not hear any evidence from me or any defense but immediately alleged his charge To be okay with her.

It is a fact I did not default in any part of this request even though city did apply different "rules" Concerning me and my property. Example originally asking me to move my boat---others have their boat in their driveway.

CASE SUMMARY

CASE No. 05CIV24-000289

CITY OF BROOKINGS vs. KAREN KORKOW

§
§
§
§Location: **Brookings**
Judicial Officer: **Howard, Abigail A**
Filed on: **08/16/2024**

CASE INFORMATION

Statistical Closures

02/20/2025 Reopened
02/20/2025 Terminated
02/20/2025 Reopened
02/20/2025 Terminated
02/19/2025 TerminatedCase Type: **Other**

PARTY INFORMATION

Plaintiff CITY OF BROOKINGS

Lead Attorneys

BRITZMAN, STEVEN

Retained

605-697-9058(W)

Defendant KORKOW, KAREN

Pro Se

605-651-4617(H)

DATE

EVENTS & ORDERS OF THE COURT

08/16/2024	 SUMMONS
08/16/2024	 COMPLAINT
08/16/2024	 SHERIFF'S RETURN OF PERSONAL SERVICE KAREN KORKOW SERVED 8/12/2024
08/16/2024	 AFFIDAVIT OF NON-MILIARTY STATUS
01/31/2025	 NOTICE OF HEARING HEARING @ 02/19/2025 1:30PM
01/31/2025	 AFFIDAVIT OF DEFAULT
01/31/2025	 MOTION FOR DEFAULT JUDGMENT
01/31/2025	 NOTICE OF INTENT TO TAKE DEFAULT JUDGMENT
02/19/2025	 DEFAULT JUDGMENT NO AMOUNT ORDERED, TO BE ENTERED AT A LATER DATE
02/20/2025	 NOTICE OF ENTRY OF JUDGMENT AND CERTIFICATE OF SERVICE
02/21/2025	 NOTICE OF APPEAL AND CERTIFICATE OF SERVICE /CERTIFIED COPY OF JUDGMENT
02/21/2025	 RECEIPT FOR \$150.00 SUPREME COURT FEE
02/21/2025	 RECEIPT FOR \$500.00 BOND
02/28/2025	 LETTER FROM THE SUPREME COURT OF SOUTH DAKOTA/RECEIPT FOR \$100.00 FEE
02/28/2025	 CLERK'S CERTIFICATE

← Found on steps
NO PERSONAL
PRESENTATION
OR SERVICE

STATE OF SOUTH DAKOTA
COUNTY OF BROOKINGS
CITY OF BROOKINGS,
SOUTH DAKOTA,

Plaintiff,

vs.

KAREN KORKOW,

Defendant.

STATE OF SOUTH DAKOTA
Third Judicial Circuit Court
I hereby certify that the foregoing instrument
is a true and correct copy of the original as the
same appears on file in my office on this date.

FEB 20 2025

Brookings County Clerk of Courts

By: *[Signature]*

IN CIRCUIT COURT

THIRD JUDICIAL CIRCUIT

Civ. No. 24-289

DEFAULT JUDGMENT

On February 19, 2025, the above-entitled matter came before this Court for a hearing pursuant to Plaintiff's Application and Affidavit of Default, which was submitted by Steven J. Britzman, Attorney for Plaintiff. The Plaintiff appeared by its Attorney, Steven J. Britzman, and the Defendant, Karen Korkow appeared without counsel. The Affidavit of Default states that no Answer or appearance have been made by the Defendant. The Court being in all things duly advised upon review of the files and pleadings of record and the Affidavit of Default filed herein, and it appearing to the satisfaction of the Court that more than thirty (30) days have elapsed since the Summons and Complaint were served upon the Defendant, and the Defendant has not filed an Answer and the Defendant is now in default, and

FURTHER, it appearing to the satisfaction of the Court that the allegations in the Complaint of the Plaintiff are true and that Plaintiff is entitled to Judgment as requested in the Complaint, now therefore,

IT IS HEREBY ADJUDGED, DECREED AND ORDERED that the Plaintiff is authorized to enter upon the property at 125 Jefferson Avenue, in Brookings, South Dakota and remove the debris located upon the property which constitutes a public nuisance, and to assess the costs of clean-up and removal of debris to the Defendant.

2/19/2025 4:33:15 PM

BY THE COURT:

Attest:
Kuechenmeister, TeJay
Clerk/Deputy



[Signature]
Abigail A. Howard, Circuit Judge
Third Judicial Circuit

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF BROOKINGS)

CITY OF BROOKINGS,)
SOUTH DAKOTA,)

Plaintiff,)
)
vs.)
)
KAREN KORKOW,)
)
Defendant.)

1.
IN CIRCUIT COURT
THIRD JUDICIAL CIRCUIT

Civ. No. 24-289

MOTION FOR DEFAULT
JUDGMENT

COMES NOW the above-named Plaintiff, by and through its undersigned attorney, Steven J. Britzman, and respectfully moves the Court for Default Judgment in this action.

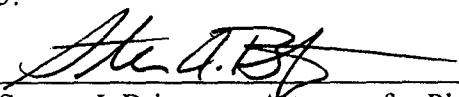
The Summons in the above-entitled action was served on the Defendant on August 12, 2024, and more than thirty days have elapsed since completion of service, and the Defendant is now in default for failure to answer.

On the 19th day of February, 2025, at 1:30 o'clock P.M., in the Courtroom of the Brookings County Courthouse, Brookings, South Dakota, the Plaintiff will move the above-entitled Court for Judgment by Default against the Defendant for the relief demanded in the Complaint. In the event Plaintiff's Motion for Default Judgment is denied, Plaintiff will request a Trial date for this matter.

This Motion is made and based upon the Affidavit of Default and upon all of the files and records herein.

Dated this 31st day of January, 2025.

1


Steven J. Britzman, Attorney for Plaintiff
521 Sixth Street, Suite 104
Brookings, SD 57006
(605) 697-9058

COPY

BROOKINGS PUBLIC LIBRARY



3 1575 00356 9666

The Constitution Explained

A GUIDE FOR EVERY AMERICAN

DAVID L. HUDSON, JR., J.D.

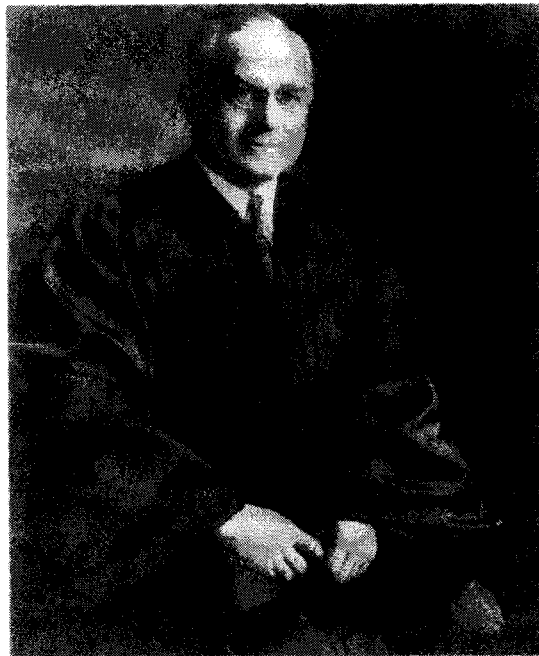
to the states. However, Black said that "I am very happy to support this selective process through which our Court has ... held most of the specific Bill of Rights' protections applicable to the States to the same extent they are applicable to the Federal Government."

Black wrote that "history conclusively demonstrates" that the purpose of section one of the Fourteenth Amendment was to "guarantee that thereafter no state could deprive its citizens of the privileges and protections of the Bill of Rights."

A majority of the Supreme Court never adopted Justice Black's total incorporation theory. However, the Supreme Court, through a process of selective incorporation, has made the vast majority of the freedoms of the first eight amendments of the Bill of Rights applicable to the states.

This process has continued in the twenty-first century. The Supreme Court, for example, incorporated the Second Amendment right to keep and bear arms in 2010 and the Excessive Fines Clause in 2019.

Through the process of selective incorporation, people in the United States are afforded nearly as much constitutional protections from state and local officials as from federal officials.



Justice Felix Frankfurter, who served on the Supreme Court from 1939 to 1962, felt that following legal procedures was an essential part of protecting people's freedoms and liberty.

Procedural Due Process

The Fourteenth Amendment consists of two types of due process: (1) procedural due process and (2) substantive due process. Procedural due process means that the government must act fairly and reasonably when it affects a person's interests in life, liberty, or property. Substantive due process means that the government has an adequate reason or justification before taking away a person's life, liberty, or property interests. In other words, procedural due process is about the process used, and substantive due process is about whether the government's action is either justified or irrational.

Procedural process is about having a procedure in place. Justice Felix Frankfurter (1882–1965) wrote in 1945 that "the history of freedom is, in no small measure, the history of procedure." For example, government officials must ensure that someone convicted of a crime receive a fair trial before a jury of his or her peers.

10.

Brief: APRIL 5, 2025
signed: Steven The Hooker

Consider this, please. I am years of age. I do not have access to a law library, I did pay \$600,0plus for the Supreme Court, State of South Dakota to consider the actual harassment from the city of Brookings, South Dakota by a variety of city employees we referenced as public servants since we hire them at tax paid representation to improve our quality of life, which is supposed to be the function of government if we are to grant consent < all power being, belonging to the 9individual citizen., Reference; The United States Constitution.

The point of contention that necessitated this appeal is the fact that Mr, Britzman, acting as city Attorney did write a false report, "alleging that my property was in worse condition than when I began to clean the driveway of items that were there at the beginning of his "request to clean the driveway. I received compliments from the code representative about how good it looks and how it is improved. They also told me that the "mayor" had told the city attorney to continue to harass me and that it was then "out of her hands", She can be subpoenaed to verify this fact. I also called the office of Steven Britzman to ask if there was anything else I should do to make certain that this matter is concluded. No call was returned to me from that office or any other city affiliate so I did believe that my responsibility was met, He told me he did not want to go to court.

Then early March 2025 I found some papers calling me to court alleging the afore mentioned complaint. This court notice was found on my step under some ice and snow. Approximately 8 days before the court appearance date. I called the office of Mr, Britzman to see what could be done as there were a couple boxes of car oil and anti-freeze and such in the driveway as I was unloading a pick up there, His response was if I just moved a few things I might not have to go to court, 1.
3rd.2025, it was 30 degrees below zero' another -20 degree chill factor, so, I asked if he could wait a few days. No, they just could not wait. I and other person's removed those boxes. He did mention It is elder abuse to ask a person to work in that weather condition.

So, we were still going to court. The vernacular was then he wouldn't do it that day. The task was

11 -
already completed by myself and other persons. He then told me he was going to ignore the code law of "line of sight" and go to the back yard. I said so you will break your own "codes" ? He began telling me what the judge would say, I asked "are you the judge too?" No. he said.. . In further conversation another day he said "I'll get rid of your junk." I said: I do not call your property junk.

The court appearance consisted of the Judge refusing to accept an opening statement from me, Refusing a brief from me, Saying "no." to my request to speak. Alleging his statement was factual with no cross examination, No due process.

I do now request an oral argument, a hearing in fact.

I would also like to include affidavits from persons who have experienced unjust and unfair treatment from the city and an upholding of our 14th amendment of the United States Constitution of our right to the quiet enjoyment of our own property.

I also believe the city of Brookings, should pay me \$350,000.00 in cash American currency for the time they have attempted to disrupt domestic tranquility at my home.

By and through
my attorney
Karen Rose Lovekin

1
MARCH 7, 2025

As an addendum to my brief: Karen Rae Korkow to Supreme Court – Pierre, S.D.
March 7, 2025 PART OF MY BRIEF

In presenting these facts for your consideration It is important that I list some of the Items such as they cut off an outside water turn off and into part of a cement walk Replacement that I paid for repairing. The outside water turn off was covered and in two years has not been replaced by the city.

The electric box was broken by a construction company removing tree roots next door. This Box has been left open for a number of years, even though requests have been made to repair Cover for protection of all living things. When I made a reverse mortgage the city/county

Decided to take \$1500.00 on a thirty year old alleged bill to the credit bureau which the county treasurer kept and has not yet returned to me. Even though this I was informed is illegal a person has to be able to hire an attorney, which I have not been able to do here as they all appear before the same court employees.

The original document of August 12, 2024 was also a call to two other locations, for the same date where I had property on my children's property – one 750 miles away and one 60 miles away -all to be completed by August 12, 2024, This really does not qualify as a coincidence to any logical observer.

All of those

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TO ORIGINAL BRIEF

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

APR 11 2025

Shirley A. Johnson Legal
Clerk

Requests were met by myself so there was no court at that time. I have to ask the library to Use their computer, This has been going on since 1983, It steals my time that I could use for my own free enterprise or to enjoy my life, it takes time and money and actually is domestic terrorism by the persons we the citizens are paying to assure us of peace in our residence and our community. I would so appreciate being able to have protection from this harassment by their misuse of the position of trust they should be upholding- The purpose of government being to improve our quality of life.

Sotomayor, a justice speaks about the impact on our lives of having others evaluate our circumstances regarding the "rule of law". I am asking for you to give me some relief and compensation and actual justice in this, that I am entitled to the quiet enjoyment of my home and that I and my property can be secure and safe from the harassment I have endured.

I know that you prefer previous cases to look at-I believe you are capable of discerning by need and request for protection by reviewing these facts .

I have a lot to do and a lot I would like to do in these remaining years I have and I would really appreciate , the protection and compensation that is due to me by these facts.

I have spent time and money . I receive \$300.00 a month social security, before the medicare deductions are made, To travel and to hire an attorney is further punishment to me, to have to participate in this attempt to see if the "rule of law" will defend me and my truth and please give me some reasonable protection by the 14th amendment of the United States Constitution .

Thank You.

Karen Rae Korkow.



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TO ORIGINAL BRIEF.

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IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

Appeal No. 31009

CITY OF BROOKINGS,

Appellee/Plaintiff,

v.

KAREN KORKOW,

Appellant/Defendant.

Appeal from the Circuit Court
Third Judicial Circuit
Brookings County, South Dakota

THE HONORABLE Abigail Howard
Circuit Court Judge

APPELLEE'S BRIEF

Karen Korkow
125 Jefferson Avenue
Brookings, SD 57006
Pro Se Appellant

WOODS, FULLER, SHULTZ & SMITH, PC
Seth A. Lopour
300 S. Phillips Avenue, Suite 300
PO Box 5027
Sioux Falls, SD 57117-5027
Attorneys for Appellee

Notice of Appeal Filed on February 21, 2025

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PRELIMINARY STATEMENT

Throughout this brief, Appellant, Karen Korkow, will be referred to as “Korkow.” Appellee, City of Brookings, will be referred to as “City.” The Brookings County Clerk of Court’s record will be referred to by the initials “CR” and the corresponding page numbers located in its February 28, 2025, Chronological and Alphabetical Indices. Korkow did not order a transcript of the February 19, 2025, hearing before Circuit Court Judge Abigail Howard, so one is not available on appeal. SDCL § 15-26A-49.

JURISDICTIONAL STATEMENT

Appellant has appealed Judge Abigail Howard’s February 19, 2025 Default Judgment. (CR 12.) Notice of Entry of the same was entered on February 20, 2025, (*id.*, at 13-15), and Claimant timely filed a Notice of Appeal on February 21, 2025. (*Id.*, at 16-19.) City agrees the February 19, 2025 Default Judgment is appealable.

STATEMENT OF THE ISSUES

- 1. Whether Korkow’s failure to order a transcript of the proceedings below is fatal to her appeal because of the limited record on appeal and her futile attempts to expand the same to manufacture error.**

SDCL §15-26A-10

SDCL §15-26A-47

SDCL § 15-26A-48

Graff v. Children's Care Hosp. & Sch., 2020 S.D. 26, 943 N.W.2d 484

- 2. Whether the Circuit Court erred by entering default judgment against Korkow when she failed to answer the Complaint or otherwise appear in this action.**

SDCL § 15–6–55(a)

SDCL § 15–6–55(b)

Rosebud Fed. Credit Union v. Mathis Implement, Inc., 515 N.W.2d 241 (S.D. 1994)

Estes v. Ashley Hosp., Inc., 2004 S.D. 49, 679 N.W.2d 469

3. **Whether Korkow can seek \$350,000 in damages against City as part of this appeal when there are no pending claims against the City or authority to support her request.**

STATEMENT OF THE CASE AND FACTS

This case stems from the City’s attempt to enforce public nuisance laws against one of its residents, Korkow.

On August 12, 2024, Korkow was served by the Brookings County Sheriff’s Office with a Summons and Complaint concerning public nuisance and abatement of Korkow’s real property located in the City of Brookings. (CR 5.) The Sheriff’s Return indicates “Personal Service” and that the Summons and Complaint were “deliver[ed] to and le[ft] with: KARON RAE KORKOW....” (*Id.*) Korkow did not file an Answer to the Complaint or any other document over the course of these proceedings.

On January 31, 2025, City filed an Affidavit of Default, Motion for Default Judgment, Notice of Intent to Take Default Judgment, and Notice of Hearing. (*Id.* at 7-11.) The matter was set for hearing on February 19, 2025. (*Id.* at 7.) The hearing took place on February 19, 2025 with City appearing through its former counsel, Steven J. Britzman, and Korkow appearing *pro se*. (*Id.* at 12.) No exhibits appear in the record from that hearing and Korkow did not file any opposition. Judge Howard entered a Default Judgment that same day, finding that Korkow was “in default,” that “the allegations in the Complaint of the Plaintiff are true and that Plaintiff is entitled to Judgment as requested in the Complaint....” (*Id.*)

Korkow did not seek any affirmative relief from the Circuit Court to vacate or set aside the default judgment. SDCL § 15-6-55(c). Instead, on February 21, 2025, Korkow timely filed a Notice of Appeal—her first filing in this case. (*Id.* at 16-19.) Korkow did

not file a Docketing Statement in this case and did not order a transcript from the February 19, 2025 hearing so one is not available on appeal. Thereafter, Korkow filed with this Court a brief on April 7, 2025, and Addendum to her brief on April 11, 2025, and a letter on April 28, 2025.

STANDARD OF REVIEW

This Court reviews “a trial court's decision concerning a default judgment under the abuse of discretion standard remembering that the trial court should exercise its discretion ‘liberally in accord with legal and equitable principles in order to promote the ends of justice.’” *Meier v. McCord*, 2001 S.D. 103, ¶ 9, 632 N.W.2d 477, 480 (quoting *In re Estate of Nelson*, 1996 S.D. 27, ¶¶ 13, 15, 544 N.W.2d 882, 886.)

ARGUMENT

1. Korkow’s failure to order a transcript is fatal to this appeal and she cannot expand the record to cure the same.

It is undisputed Korkow failed to order a transcript in this appeal under SDCL § 15-26A-48. This statute creates a procedural and substantive burden on Korkow to present a full and complete record to this Court. The South Dakota Supreme Court has routinely advised that, not only is it the appellant’s obligation to preserve the record on appeal, the appellant’s failures to the same do not automatically result in relaxation of the rules, rather it results in a hampered review.

A basic tenet of appellate procedure assigns to the appellant “the ultimate responsibility for presenting an adequate record on appeal” *Baltodano v. N. Cent. Health Servs., Inc.*, 508 N.W.2d 892, 894 (S.D. 1993) (quoting *Pearson v. Adams*, 279 N.W.2d 674, 676 (S.D. 1979)). Although appellate review in the absence of a transcript is not categorically precluded in all cases, the lack of a transcript may well be fatal to an appeal if it prevents complete and meaningful review of an issue. Our rule, therefore, provides that we will review the trial court record insofar as it exists. *See id.* (“Where the record contains no transcript, the record on appeal is confined to those pleadings and papers transmitted from the circuit court.”). Where the trial

court record is incomplete and not adequate to the task, “our presumption is that the circuit court acted properly.” *Id.* at 895 (quoting *In re C.M.*, 417 N.W.2d 887, 889 (S.D. 1988)).

Graff v. Children's Care Hosp. & Sch., 2020 S.D. 26, ¶¶ 16, 943 N.W.2d 484, 489–90.

See also Ibrahim v. Dep't of Pub. Safety, 2021 S.D. 17, ¶ 27, 956 N.W.2d 799, 805–06.

Thus, where there is an absence of a transcript (or waiver of that right in this case), the result is an appeal with a limited record.

In addition to Korkow’s failure to order a transcript, she did not file a single document with the circuit court at any stage of the proceedings below contesting the allegations in the Complaint or otherwise expressing an intent to defend this case. There were no exhibits filed at the February 19, 2025 hearing. Korkow never filed a motion to set aside the default judgment or provided any documentary support for her failure to file an Answer or otherwise appear in this case. Because Korkow didn’t file anything or preserve the record, the record before this Court on appeal is virtually non-existent other than the City’s Summons, Complaint, Motion for Default Judgment and the ultimate Default Judgment. In fact, the only evidence that exists regarding what transpired at the February 19, 2025 hearing is the Default Judgment, itself.

Yet, Korkow attempts to expand the record on appeal by alleging what was stated on the record during The February 19, 2025 hearing, (*See* CR at 16-17; Appellant’s Br., at 5), and attempts to inject facts into the record that do not exist: including allegations of “harassment,” “domestic terrorism,” and other, collateral issues she has had with public utilities. Most importantly, for the first time in this case, Korkow attempts to create a record that she communicated with former City Attorney, Steven Britzman, with respect

to the allegations in the Complaint—seemingly in an effort to argue that she has “appeared” in this case. (Appellant’s Br., at 1, 11.)

Such expansion of the record on appeal is highly improper and Korkow’s extraneous allegations should be disregarded by this Court. *See* SDCL §§ 15-26A-10 (“When the appeal is from any order subject to appeal, the Supreme Court may review all matters appearing on the record relevant to the question of whether the order appealed from is erroneous.” (emphasis added).); 15-26A-47 (“The original pleadings, papers, offered exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases.”). By failing to preserve the record below or make a single filing, Korkow how failed to properly present these allegations and collateral issues to this Court, thereby waiving the same. This Court has “repeatedly stated that [it] will not address for the first time on appeal issues not raised below.” *Hiller v. Hiller*, 2015 S.D. 58, ¶ 23, 866 N.W.2d 536, 544 (citation omitted).

2. The Circuit Court did not err in granting Default Judgment and there is no record evidence that Korkow has “appeared” in this action.¹

With respect to default judgment, this Court has held:

¹ Korkow’s opening brief fails to meet the requirements of SDCL § 15-26A-60(6) in that she does not provide any authority to support her appeal, other than generally referencing the 14th Amendment to the United States Constitution. Throughout Korkow’s filings, she generalized her rights under the United States Constitution and seems to suggest that the public nuisance and/or default judgment statutes violate her Constitutional rights. *See, e.g.*, (Appellant’s April 28, 2025 Letter (requesting “the protection as the United States Constitution affords [her] and that the quiet enjoyment of [her] property by [herself] is protected.”) To the extent this Court construes Korkow’s appeal as a challenge as to the constitutionality of the public nuisance statutes, she has not properly perfected or preserved that issue in these proceedings. *See* SDCL § 15-6-24(c) (“When the constitutionality of an act of the Legislature affecting the public interest is drawn in question in any action to which the state or an officer, agency, or employee of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general thereof within such time as to afford him the opportunity to intervene.”).

Under SDCL 15–6–4(a), 15–6–55(a), and 15–6–55(b) ‘[o]nce proper service of process is made and proof thereof filed, the court is authorized to enter a default judgment against a defendant when the record shows by affidavit of default that [defendant] has been served, but has failed to plead or otherwise defend the action within thirty days of service[.]’

Rosebud Fed. Credit Union v. Mathis Implement, Inc., 515 N.W.2d 241, 243–44 (S.D. 1994) (quoting *Adam v. Van Buren*, 315 N.W.2d 319, 320 (S.D. 1982)).

The record shows that Korkow was served with a Summons and Complaint on August 12, 2024. Korkow alleges, on appeal, that these were left on her doorstep. (Appellant’s Br., at 6.) Again, there is no record to support this allegation. Rather, the Sheriff’s Return indicates “Personal Service” and that the Summons and Complaint were “deliver[ed] to and le[ft] with: KARON RAE KORKOW....” (CR 5.)

It cannot be disputed that Korkow failed to file an Answer. “A party’s intention to defend against a lawsuit must be made clear to the court as well as opposing counsel. If the answer had been filed with the clerk of court, the court file would have clearly indicated the defendants’ intent to defend against the claim.” *Estes v. Ashley Hosp., Inc.*, 2004 S.D. 49, ¶ 11, 679 N.W.2d 469, 474. Thus, Korkow’s only avenue on appeal is to argue that she otherwise defended or appeared in this action.

As stated above, the record is wholly devoid of any filing evidencing an appearance by Korkow except for the allegations being made for the very first time in her briefing to this Court. For the reasons already stated, Korkow cannot manufacture her “appearance” on appeal for the first time by alleging various conversations she had with the City—particularly in a case where Korkow has not sought relief under SDCL § 15-6-60(b) nor where these communications only exist outside the record. *Compare to Meier v. McCord*, 2001 S.D. 103, ¶ 20, 632 N.W.2d 477, 483 (analyzing “excusable neglect”

standard in context of litigant’s attempt to set aside default judgment and evidence of contact between the parties contained in the record). These are unsworn and unsupported allegations that are insufficient to prosecute her appeal. Korkow was required to preserve her record below so this Court could adequately review the same. *Graff*, 2020 S.D. 26, ¶ 16, 943 N.W.2d at 489–90.

Without filing an Answer or any evidence that she has “appeared” in this action, the only remaining argument made by Korkow is that she was not afforded “due process” at the hearing. (Appellant’s Br., at 1, 3-5.) This Court has no way of knowing whether that allegation is true because Korkow did not order a transcript, which results in a waiver of that right. SDCL § 15-26A-49. Thus, the only facts that exist in the record on this point is that Korkow appeared at the hearing and Judge Howard entered a Default Judgment.

Korkow has not provided any authority to this Court that her physical appearance at the February 19, 2025 default judgment hearing is a *per se* bar to default judgment being entered against her—particularly where there is no record of what was said at such hearing. No such authority exists in South Dakota, and such an argument is not a sufficient basis for reversal.

Because there is no record evidence in this appeal to support a finding of an abuse of discretion, City respectfully requests this Court affirm the Default Judgment below.

3. Korkow’s request for damages is baseless and unsupported.

Korkow has requested this Court award her \$350,000 “for the time [the City] [has] attempted to disrupt domestic tranquility in [Korkow’s] home.” (Appellant’s Br., at 1, 12; *see also* April 28, 2025 Letter (“I am making a motion that I am paid cash money

of the amount I requested of \$350,000.”) Korkow provides this Court with no authority through which this Court can award general, unsupported damages as part of an appeal. Korkow has no claim pending against the City in this action. Such a claim for damages is meritless on its face and should be denied, in full.

CONCLUSION

For the reasons stated above, the City respectfully requests this Court affirm Judge Howard’s entry of Default Judgment.

Dated this 20th day of May 2025.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ Seth A. Lopour
Seth A. Lopour
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Post Office Box 5027
Sioux Falls, SD 57117-5027
(605) 336-3890
Seth.Lopour@woodsfuller.com
Attorneys for City of Brookings

CERTIFICATE OF COMPLIANCE

In accordance with SDCL § 15-26A-66(b)(4), the undersigned certifies that this brief complies with the requirements set forth in the South Dakota Codified Laws. This brief was prepared using Microsoft Word 365, Times New Roman (12 point) and contains 2,320 words, excluding the table of contents, table of authorities, and certificates of counsel. The undersigned has relied on the word and character count of the word-processing program to prepare this certificate.

Dated this 20th day of May 2025

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ Seth A. Lopour
Seth A. Lopour
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Post Office Box 5027
Sioux Falls, SD 57117-5027
(605) 336-3890
Seth.Lopour@woodsfuller.com
Attorneys for City of Brookings

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May 2024, a true and correct copy of the foregoing Appellee's Brief was sent, via U.S. first class mail, postage prepaid, to:

Karen Korkow
125 Jefferson Avenue
Brookings, SD 57006
Pro Se Appellant

/s/ Seth A. Lopour
One of the attorneys for Appellee

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JUN 18 2025

Seth A. Lopour
Clerk

Appeal number # 31009

In response to the brief submitted by:

Woods, Fuller, Shultz, and Smith, PC and by Seth A Lopour

300 South Phillips Ave.

Suite 300

PO Box 5027, Sioux Falls, SD 57117

The first point made and peppered throughout the document is that Karen Korkow failed to order a transcript. Please be advised that a transcript has been ordered as of 6/17/25 and will be available "some day next week" according to the court reporter.

A motion to set aside default judgement wasn't filed as Appellant was under duress with the looming possibility of the abatement of personal property and without knowledge of that being an option. At the time, the only possibility for saving the personal property known to the appellant was to file an appeal with the Supreme Court within the week. She was admittedly scared that the city would (and still may) forcefully take her property and saw no other solution than to file the appeal with the Supreme Court.

There is an error regarding the issue of service of the complaint. The August paperwork was served to Appellant. However, the paperwork in January was left in the snow and unreadable. The Appellant will request another copy of the complaint from the Clerk of Courts on June 20th as this is the next date of business the court will be open. To which the allegations of an untidy yard will be responded to with adequate proof of compliance including but not limited to pictures that the yard is in order.

While the appellant does feel that her rights have been violated; she wants peaceful and expedient resolution with the City of Brookings without the very distressful situation of feeling that her property is in jeopardy.

At this time the request is to stay the judgement of the city until appellant can review the transcript and the original complaint to make sure she is in fact compliant and wishes the possibility of abatement of personal property in this matter to be expunged.

SD Supreme Court

Seth Clerk

10:45 AM
June 26
2025

In the brief by Lopour, Seth A.. My name is miss spelled. So he did not really address an answer or brief because he has addressed the brief to another name, I make a motion his brief is not accepted on that basis.

Regarding the comments he put forth: A transcript is forthcoming from 3rd judicial circuit

The court reporter said this week, The facts are clear I was not given a hearing and proof of that is available. Mr. Britzman did not tell the truth in his allegations in January 2025..

There is no public utility concern as Mr. Lopour attempted to infer—He has no personal knowledge of any of the reality of Brookings, S.D. —the city cut off an outside water turn off in the boulevard and covered it, instead of repairing it, I considered that harassment. Also in the first request of the city, a big item to them was that my boat was in my driveway—obviously it is moved, even though neighbors are allowed to park their boats in the driveway, I consider that as proof that I did

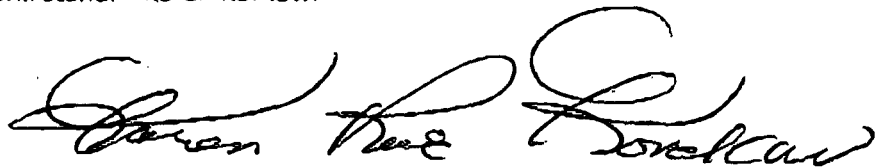
comply. Also at that time on the same date I was requested to move property in two other locations, Mr. Britzman, now semi-retired did not tell the truth, The code person, Sara complimented me on the improved appearance of my property- said "It is beautiful. She is now in another activity -govt

The case is the truth and the truth is alive and well. In and with by and for Jesus Christ.

I paid a lot of money to come to supreme court to be heard and address and affirm my and others 14th Amendment right to the quiet enjoyment of our own property on our own property,

I have witness and others I can call as I call forth heaven and earth as witnesses K>J>V> .

I stand for truth and the truth will stand. Karen Korkow.



SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JUN 20 2025

Shirley A. Johnson, Legal
Clerk

Supreme Clerk

Supreme Court
Pierre, South Dakota

10:45 AM
JUNE 20, 2025

FAX 605 773 6128

PROOF OF SERVICE

BY FAX FROM BROOKINGS, South Dakota LIBRARY

COPY OF ANSWER OF BRIEF BY LOPOUR, SETH A.
TO FAX 605.339.3357 SIOUX FALLS, SOUTH DAKOTA
WOODS FULLER SHULTZ AND SMITH, P. C.

CASE 31009

Signed:

Karen Fontana

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

0-0

CITY OF BROOKINGS, SOUTH DAKOTA,	:	Appeal No. 31009
	:	05CIV24-289
Appellee-Plaintiff,	:	
v.	:	OBJECTION TO APPELLANT’S REPLY BRIEF
KAREN KORKOW,	:	
Appellant-Defendant.	:	

0-0

Appellee makes the following, limited objection to Appellant’s Reply Brief on the sole basis of Appellant’s apparent intent on supplementing or expanding the record on appeal with the transcript from the underlying default hearing—which is not presently part of this appellate record. Appellant has statutorily waived her right to the same. Under SDCL § 15-26A-48, Appellant was required to file an Order for Transcript within ten days after filing her Notice of Appeal. She did not do so and pursuant to SDCL §15-26A-49, “[f]ailure to order a transcript within the time fixed by this chapter shall constitute a waiver of the right to such a transcript.”

WHEREFORE, Appellant is and should be barred from filing the default hearing transcript in this appeal or supplementing the record in any way with its contents. Appellee requests any subsequent submissions be stricken accordingly.

Dated this 30th day of June 2025

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ Seth A. Lopour
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300 South Phillips Avenue, Suite 300
Post Office Box 5027
Sioux Falls, SD 57117-5027
(605) 336-3890
Seth.Lopour@woodsfuller.com
Attorneys for City of Brookings

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June 2025, a true and correct copy of the foregoing
was sent, via U.S. first class mail, postage prepaid, to:

Karen Korkow
125 Jefferson Avenue
Brookings, SD 57006
Pro Se Appellant

/s/ Seth A. Lopour
One of the attorneys for Appellee

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

CITY OF BROOKINGS,	)	ORDER IN RE:
SOUTH DAKOTA,	)	APPELLEE'S OBJECTION TO
Plaintiff and Appellee,	)	APPELLANT'S REPLY BRIEF
	)	
vs.	)	#31009
	)	
KAREN KORKOW,	)	
Defendant and Appellant.	)	
	)	

The Court recognizes receipt of appellant's reply brief.
No determination has been made for accepting the brief.

Appellees served and filed an objection to appellant's brief concerning the apparent attempt of appellant supplementing or expanding the record on appeal with the transcript from the underlying default hearing---which is not presently part of this appellate record. Appellant has statutorily waived her right to the same. Under SDCL § 15-26A-48 appellant was required to file an order for transcript within ten days after filing her notice of appeal. She did not do so pursuant to SDCL 15-26A-49. The Court has not approved the filing of the transcript.

The Court considered the objection, and it is

ORDERED that the transcript from the default hearing is not part of the record until such time as a motion for late order of

transcript is filed and the Court rules on said motion.

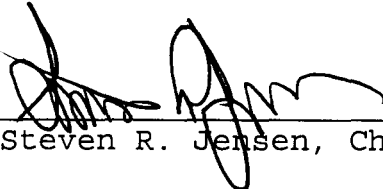
DATED at Pierre, South Dakota, this 30th day of June, 2025.

BY THE COURT:

ATTEST:



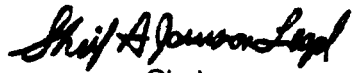
Clerk of the Supreme Court
(SEAL)



Steven R. Jensen, Chief Justice

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JUN 30 2025


Clerk

DISTRIBUTION OF COURT ORDER

CASE: 31009

ORIGINAL FILED: June 30

Title of Case:

CITY OF BROOKINGS,
SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

KAREN KORKOW,
Defendant and Appellant.

Title of Order:

ORDER in re: Appellee's
Objection to Appellant's Reply
Brief

MAILING DATE: June 30 2025

COPIES MAILED TO:

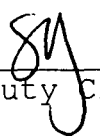
FOR APPELLANT: Karen Korkow_

FOR APPELLEE: Seth Lopour_

JUDGE: _

CLERK: (certified _

Dated: Monday, June 30, 2025



Deputy Clerk of the Supreme Court