

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

TIMOTHY JOHN EVENS,	)	ORDER DIRECTING ISSUANCE OF
Plaintiff and Appellee,	)	JUDGMENT OF AFFIRMANCE
	)	AND AWARDING APPELLATE
vs.	)	ATTORNEY FEES
	)	
RACHEL JOANNA EVENS,	)	#29654
Defendant and Appellant.	)	
	)	

-----

Appellant having appealed from two orders entered on May 19, 2021, the first denying removal of the children's attorney and awarding attorney fees to Appellee's and children's attorney, and the second setting forth requirements for Appellant's submissions to the court including e-mail communications, and

The Court having dismissed on October 29, 2021, all portions of the appeal from the first and second orders for lack of jurisdiction, concluding they were not final orders per SDCL 15-26A-3, with the exception of the question regarding attorney fees; and having also taken Appellee's request for appellate attorney fees under advisement until the conclusion of the appeal, and

The parties now having submitted their briefs regarding the remaining issue challenging the award of attorney fees to Appellee's and children's attorney, it is hereby

#29654, Order

ORDERED that Appellant, having failed to brief the attorney fees issue, instead raising the circuit court's alleged lack of jurisdiction over her underlying divorce case, *Evens v. Evens*, has waived and abandoned the issue. Appellant's jurisdictional argument is precluded under the doctrine of res judicata in accordance with *Wells v. Wells*, 2005 S.D. 67, 698 N.W.2d 504, as this Court has previously heard on appeal and affirmed the circuit court's decision granting Appellant's divorce in all respects in *Evens v. Evens*, 2020 S.D. 62, 951 N.W.2d 268, and

Having considered the pleadings and entire appellate record and concluding that pursuant to SDCL 15-26A-87.1, it is manifest on the face of the briefs and from the record that the appeal is without merit because the issues are factual and there clearly is sufficient evidence to support the attorney fees awards and there clearly was not an abuse of discretion (SDCL 15-26A-87.1(A)(2-3), now, therefore, it is

ORDERED that a judgment affirming the May 19, 2021 order of the circuit court be entered forthwith, and it is further

ORDERED that Appellee having requested appellate attorney fees and having submitted a verified itemized statement of legal

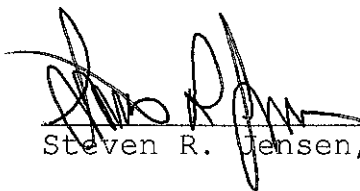
#29654, Order

services rendered, totaling \$15,844.54, and the Court having previously taken this matter under advisement, awards Appellee's appellate attorney fees in full pursuant to SDCL 15-17-38 and SDCL 15-17-51.

DATED at Pierre, South Dakota, this 22nd day of February, 2022.

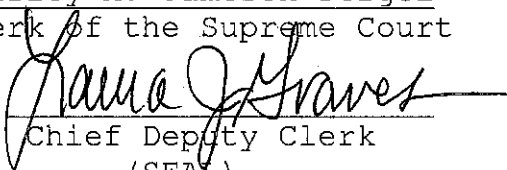
BY THE COURT:

ATTEST:

  
Steven R. Jensen, Chief Justice

Shirley A. Jameson-Fergel  
Clerk of the Supreme Court

By:

  
Chief Deputy Clerk  
(SEAL)

PARTICIPATING: Chief Justice Steven R. Jensen and Justices Janine M. Kern, Mark E. Salter, Patricia J. DeVaney and Scott P. Myren.

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

FEB 22 2022

  
Clerk