

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

JOSEPH D. LEFORS,	)	ORDER DIRECTING ISSUANCE
Plaintiff and Appellee,	)	OF JUDGMENTS OF
	)	AFFIRMANCE AND REVERSAL
vs.	)	
	)	#30910, #30943, #31025
KRISTA M. LEFORS,	)	
Defendant and Appellant.	)	

The Court having, pursuant to SDCL 15-26A-87.1(A), considered all of the briefs filed in the above-entitled matter, together with the appeal record, concludes that the orders from which the appeals were taken should be affirmed in part and reversed in part. Now, therefore, it is:

ORDERED that a judgment affirming the circuit court's finding that Krista willfully violated the court's order and October 24, 2024 order, issuing monetary sanctions totaling \$14,500, shall enter forthwith.

IT IS FURTHER ORDERED that a judgment shall enter reversing the November 20, 2024 order of the circuit court, imposing sanctions of expanded visitation and attorney's fees, for the following reasons:

a. As to the expansion of Joseph's parenting time with K.M.L. to include one overnight every other Friday, the court abused

its discretion as there is no showing the court considered K.M.L.'s best interests within the specific context of the expanded parenting time contemplated by the court. The court was authorized by SDCL 25-4A-5(7) to impose such a sanction after finding multiple willful violations of the visitation order, but this remedy did not supplant the court's obligation to consider the best interests of the child in the decision.¹ See *Heinen v. Heinen*, 2008 S.D. 63, ¶ 10, 753 N.W.2d 891, 894 (citation omitted) ("In the end, our brightest beacon remains the best interests of the children."). See also SDCL 25-4-45 ("[T]he court shall be guided by consideration of what appears to be for the best interests of the child[.]").

b. The award of attorney's fees in the amount of \$6,000 is reversed because of the failure of proof by Joseph to submit an itemized statement supporting his request for attorney's fees to allow the circuit court to determine the reasonableness of the fees. See *Hiller v. Hiller*, 2018 S.D. 74, ¶ 30, 919 N.W.2d 548, 556 (quoting SDCL 25-4A-5(2)) ("[T]he text of SDCL 25-4A-5(2) limits an attorney fees award to 'reasonable attorney's fees incurred as a result of the noncompliance[.]'"); see also *Dooley v. Dooley*, 1999 S.D. 136, ¶¶ 26-27, 601 N.W.2d 277, 281-82 (reversing the issue of attorney fees because the fee statement submitted by the moving party's attorney did not provide an itemization or time frame for the

1. The circuit court had jurisdiction to modify the prior visitation orders which were not challenged in *LeFors III* and were entered before any of the three subject appeals.

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legal fees asserted); *State v. Mollman*, 2003 S.D. 150, ¶ 12, 674 N.W.2d 22, 27 (holding that a party, who had the burden of proof on the applicable issue, could not have a second "bite at the apple" when he had been given the opportunity to present his evidence).

IT IS FURTHER ORDERED that a judgment shall enter vacating the portion of the February 5, 2025 circuit court order, expanding Joseph's visitation in accordance with the South Dakota Parenting Guidelines, because the court lacked jurisdiction to modify the visitation provisions in the November 20, 2024 order, after Krista timely appealed the order. The notice of appeal divested the circuit court of jurisdiction to change or modify the order, other than for trivial matters and enforcement of the order. See *Reaser v. Reaser*, 2004 S.D. 116, ¶ 28, 688 N.W.2d 429, 437-38 ("In these instances, the trial court is restrained from entering any order that would change or modify the judgment on appeal or have the effect of interfering with review of the judgment.")

IT IS FURTHER ORDERED that the circuit court's order imposing attorney's fees in the amount of \$2,000 is reversed and a judgment of reversal shall issue forthwith. While the court was not divested of jurisdiction to impose attorney's fees as an action to enforce the visitation order, there was a failure of proof as Joseph failed to submit an affidavit of attorney's fees or itemized statement to support the request for attorney's fees.

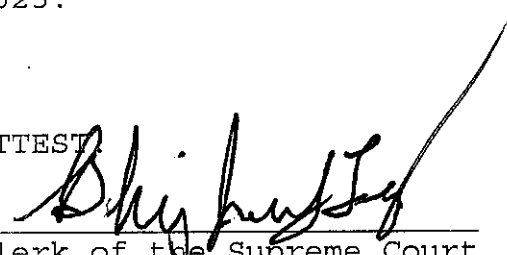
IT IS FURTHER ORDERED that a judgment vacating the portion of the July 7, 2025 order, awarding primary physical custody to Joseph, shall enter because the court was without jurisdiction to modify the existing visitation order, which was pending on appeal at the time the circuit court entered the July 7, 2025 order changing custody. See *City of Brookings v. Ramsay*, 2007 S.D. 130, ¶ 16, 743 N.W.2d 433, 438 ("Without subject matter jurisdiction, any decision rendered by the court is void.")

IT IS FURTHER ORDERED that Joseph's motions for appellate attorney's fees are denied.

DATED at Pierre, South Dakota, this 17th day of October, 2025.

BY THE COURT:

ATTEST:


Clerk of the Supreme Court
(SEAL)

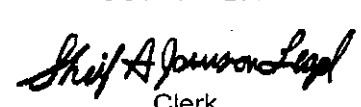

Steven R. Jensen, Chief Justice

(Justice Patricia J. DeVaney and Justice Scott P. Myren dissent as to the Order affirming the circuit court's finding that Krista willfully violated the court's order and would reverse the related October 24, 2024 order awarding monetary sanctions.)

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

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Clerk