

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) **RULE 21-11**
SDCL 19-19-807))
)

A hearing was held on August 24, 2021, at Pierre, South Dakota, relating to the amendment of SDCL 19-19-807 and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 19-19-807 be and it is hereby amended to read in its entirety as follows:

SDCL 19-19-807. Residual exception.

(a) **In general.** Under the following ~~circumstances~~ conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not ~~specifically covered by~~ admissible under a hearsay exception in § 19-19-803 or 19-19-804.

- (1) The statement ~~has equivalent circumstantial guarantees of trustworthiness~~ is supported by sufficient guarantees of trustworthiness--after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and
- (2) ~~It is offered as evidence of a material fact;~~
- ~~(3) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and.~~
- ~~(4) Admitting it will best serve the purposes of these rules and the interests of justice.~~

(b) **Notice.** The statement is admissible only if, ~~before the trial or hearing,~~ the proponent gives an adverse party reasonable notice of the intent to offer the statement and ~~its particulars, including the declarant's name and address,~~ including its substance and the declarant's name so that the party has a fair opportunity to meet it. The notice must be provided in writing before the trial or

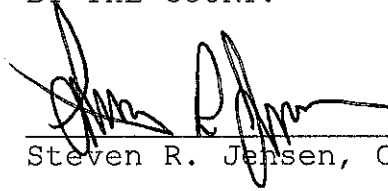
Rule 21-11

hearing--or in any form during the trial or hearing if the court,
for good cause, excuses a lack of earlier notice.

IT IS FURTHER ORDERED that this rule shall become
effective January 1, 2022.

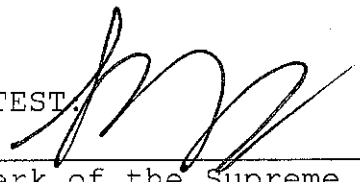
DATED at Pierre, South Dakota, this 1st day of September,
2021.

BY THE COURT:



Steven R. Jensen, Chief Justice

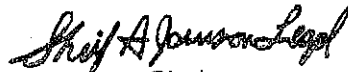
ATTEST.



Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

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Clerk