

IN THE SUPREME COURT

OF THE

SEP 05 2023

STATE OF SOUTH DAKOTA

Shirley A. Johnson Legal
Clerk

* * * *

NE' COLE WERDEL,)	ORDER DIRECTING ISSUANCE OF
Plaintiff and Appellee,)	JUDGMENT OF AFFIRMANCE
)	
vs.)	#30141
)	
ANDREW WERDEL,)	
Defendant and Appellant.)	

The Court having, pursuant to SDCL 15-26A-87.1(A), considered all the briefs filed in the above-entitled matter, together with the appeal record, and having concluded that it is manifest on the face of the briefs and the record that the appeal is without merit on the ground that the issues on appeal are ones of judicial discretion and there clearly was not an abuse of discretion (SDCL 15-26A-87.1(A)(3)), now, therefore, it is

ORDERED that a judgment affirming the Order of the lower court be entered forthwith.

DATED at Pierre, South Dakota, this 5th day of September, 2023.

BY THE COURT:

Steven R. Jensen

Steven R. Jensen, Chief Justice

ATTEST:

[Signature]

Clerk of the Supreme Court
(SEAL)

cont.

#30141, Order

SALTER, Justice, dissenting.

I believe the circuit court's findings of fact are not oriented to the best interests of the children standard and do not address the expert testimony presented at the July 2022 hearing. I would vacate the circuit court's order and remand the case for additional findings relating to the best interests of the children, without restriction upon court's authority to take additional evidence.

DEVANEY, Justice, joins this writing.

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