

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

SEP 04 2024

*Shif A Johnson Legal*  
Clerk

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ARLENE AGER,	)	ORDER DIRECTING ISSUANCE OF
Plaintiff and Appellant,	)	JUDGMENT OF AFFIRMANCE
	)	
vs.	)	#30645
	)	
LINDA AGER COYLE, individually and as	)	
Power of Attorney of Fred Ager, now	)	
deceased; and WILLIAM COYLE,	)	
individually and as Power of Attorney	)	
of Fred Ager, now deceased,	)	
Defendants and Appellees.	)	

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This Court having considered the briefs filed in the above-entitled matter, the appellate record, and the parties' oral arguments, concludes that pursuant to SDCL 15-26A-87.1(A) (1), Arlene's claims are precluded by the doctrine of res judicata as set forth in *In re Estate of Geier*, 2012 S.D. 2, 809 N.W.2d 355 and *In re Estate of Smeenk (Smeenk II)*, 2024 S.D. 23, 6 N.W.3d 250. The issue underlying the circuit court's denial of Arlene's petition to remove Linda as personal representative in probate file #23-16 is identical to the issue raised in the current civil file #23-124 underlying the present appeal, and the circuit court's ruling in probate file #23-16 was a final order entered in an unsupervised probate proceeding which was immediately appealable under *Geier*.<sup>1</sup> Arlene sought appellate

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1. See also *In re Estate of Ager*, 2024 S.D - n.2, -- N.W.3d - n. 2 (noting that Arlene could not revive her *Geier*-type appeal from file #30501 through a notice of review in an

review of this order in appellate file #30501, but this Court dismissed the appeal for lack of jurisdiction. Our dismissal operates as a final judgment for the purposes of res judicata under *Smeenk II*, despite the ongoing probate proceedings and subsequent order for supervised administration. Therefore, it is hereby


ORDERED that a judgment affirming the order of dismissal entered by the circuit court in civil file #23-124 be entered forthwith, and it is further noted that,

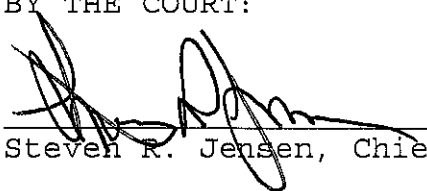
This Court did not consider and expresses no opinion on Arlene's claim that the circuit court erred by failing to rule on her motion for leave to amend her complaint. The circuit court took no action on the motion, dismissing the case in its entirety before the hearing scheduled on the motion. Accordingly, there is nothing for this Court to review.

DATED at Pierre, South Dakota, this 4th day of September, 2024.

BY THE COURT:

ATTEST:

  
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Clerk of the Supreme Court  
(SEAL)

  
\_\_\_\_\_  
Steven R. Jensen, Chief Justice

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

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appeal by Linda of a post-supervised-administration, non-final order that we ultimately dismissed).