

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

NICHOLAS JENSEN,	)	ORDER OF REVERSAL AND
Plaintiff and Appellee,	)	FOR FURTHER PROCEEDINGS
	)	
vs.	)	#30329
	)	
RACHAEL HORTON,	)	
Defendant and Appellant.	)	

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The Court having considered the brief filed by Rachel Horton in the above-entitled matter, together with the appellate record and having determined that the March 2023 hearing which resulted in the Amended Custody Modification and Pick Up and Place Order was conducted without notice, it is hereby

ORDERED that the circuit court's March 2023 Amended Custody Modification and Pick Up and Place Order is reversed due to lack of notice to Rachael Horton.

ORDERED that the circuit court shall convene and conduct an evidentiary hearing with notice to both parties as soon as possible to determine custody of A.J. after considering her best interests. While SDCL 25-4A-5 allows for the modification of custody as a sanction for the willful violation of a custody order, this remedy does not supplant the traditional best interests of the child standard that applies in custody disputes involving parents. Rather, the best interests standard remains preeminent, and the court shall remain fixed upon it.

#30329, Order

ORDERED that if the court's calendar does not allow sufficient time to determine permanent custody on an expedited basis, the court shall determine custody as a temporary matter. Any resulting order shall be based upon evidence and be supported by findings of fact and conclusions of law.

ORDERED that custody shall remain with Nicholas Jensen until the circuit court convenes a hearing to determine custody pursuant to A.J.'s best interests and issues an order accordingly.

DATED at Pierre, South Dakota this 31st day of January, 2024.

BY THE COURT:

ATTEST:

  
\_\_\_\_\_  
Clerk of the Supreme Court  
(SEAL)

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

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

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN 31 2024

  
Clerk