

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

AUG -2 2024

Shif A. Johnson Legal
Clerk

* * * *

LIFE DEFENSE FUND and)	ORDER OF
LESLEE UNRUH,)	REVERSAL
Plaintiffs and Appellants,)	
)	#30759, #30760
vs.)	
)	
DAKOTANS FOR HEALTH,)	
Defendant and Appellee.)	

On July 16, 2024, Appellants Life Defense Fund and Leslee Unruh appealed from the circuit court's order granting Appellee Dakotans for Health's motion to dismiss. On July 19, 2024, Appellee served and filed its notice of review from the circuit court's order granting its motion to dismiss in this Court, which Appellee thereafter declined to pursue.

On July 19, 2024, Appellants served and filed an opening brief and a motion to suspend the rules of civil appellate procedure pursuant to SDCL 15-26A-2 for an expedited appeal. On July 19, 2024, this Court entered an order directing Appellee to respond to Appellant's motion to suspend the rules by July 22, 2024. After Appellee timely served and filed its response, this Court entered an order granting Appellants' motion to suspend rules on July 24, 2024, and ordered that the court reporter in the case complete, file, and serve the ordered transcript by July 26, 2024, that the Appellee serve and file a response brief by July 29, 2024, and that Appellants serve and file a reply brief by July 31, 2024. The transcript and remaining briefs in this matter were served and filed in accordance with this Court's directives.

This Court considered the briefs filed in the above-entitled matter and the appeal record and concluded that the circuit court erred in dismissing the matter based on its determination that

Appellants should have brought the case as a quo warranto action to challenge the Secretary of State's authority. Therefore, it is now

ORDERED that the court's order of dismissal is reversed, and the case is remanded for further proceedings on the Appellants' complaint under SDCL 2-1-18.

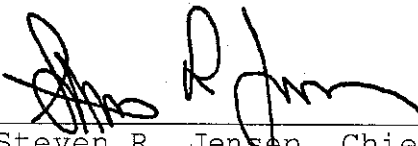
IT IS FURTHER ORDERED that Appellants' request for assignment of a different judge upon remand is denied.

IT IS FURTHER ORDERED that any relief that Appellants requested regarding expediting this matter in the circuit court is denied. This exceptional level of supervision over a circuit court's calendar is not supported by the current state of the record.

The Court has not decided and expresses no opinion on any other issues raised by the parties, including whether the Secretary of State is an indispensable party to this action. Any such issue can be resolved, in the first instance, by the circuit court on remand.

DATED at Pierre, South Dakota this 2nd day of August, 2024.

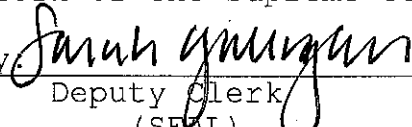
BY THE COURT:



Steven R. Jensen, Chief Justice

ATTEST:

Shirley A. Jameson-Fergel
Clerk of the Supreme Court

By 
Deputy Clerk
(SEAL)

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