

26-5575

No. _____

ORIGINAL

FILED

AUG 12 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Theresa K. Jensen — PETITIONER

(Your Name)

vs.

South Dakota Dept. of Labor, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

South Dakota Supreme Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Theresa K. Jensen

(Your Name)

1223 5th Street South

(Address)

Brookings, SD 57006

(City, State, Zip Code)

605-695-6413

(Phone Number)

QUESTION(S) PRESENTED

1. Did the SD Supreme Court knowingly commit prejudicial and procedural due process errors by law with their 04.09.2026 Dismissal and 05.15.2026 Order Denial with case activity continuous since the 12.31.2020 Circuit Court Appeal Win including an estopped Employer/Insurer mention of settlement before Hearing, ruled Dismissal not appealable leaving an Injured SD worker without an opportunity to be heard - a hearing, and denying a 03.31.2026 Petition for Hearing – Appeal, and Sixth Circuit Court returning filed Responses, and left a pro se injured worker in need of care for this “outstanding condition” and “compensable” injury with submitted/accepted treating physicians support on file, that has negative effect and impact upon every working South Dakotan? and working American?
2. More importantly, did the SD Supreme Court knowingly have the legal right to allow this circuit court split and conflicts/contradictions with an Sixth Circuit Court Appeal Win Order 12.31.2020 by Her Honor Klinger on record for the SD DOL to hear this case, polar opposite with Sixth Circuit Court Staff 03.12.2026/03.23.2026 and Her Honor Northrup not in their jurisdiction/unfiled/no action 03.18.2026/received again with Circuit 03.23.2026 responses, going against the original ruling of this Sixth Circuit Court Order 12.31.2020 by Her Honor Klinger so sounded as unappealable Dismissal?
3. Most importantly, did the SD Supreme Court have the legal right when filling their legal roles/responsibilities with access to the submitted/accepted discovery evidence, to knowingly allow through the SD DOL Officials' actions the release of an estopped Employer/Insurer of their undisputable sole responsibilities where management repeatedly violated SD “protected worker” laws, the Dismissal/Denial of a pro se litigant of deserving fair treatment and the moving party released of the burden of proof making prejudicial errors by law, and leave an Injured SD worker in need of care for this “compensable” injury and “outstanding condition” that has negative effect and impact upon every working South Dakotan? and working American?

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

**THERESA K. JENSEN,
SOUTH DAKOTA DEPT. OF LABOR,
TWIN CITY FAN COMPANIES LTD,
and TRAVELERS INSURANCE,
Employer and Insurer/Respondents**

RELATED CASES

**Jensen V. Twin City Fan Companies LTD, Travelers Insurance, HF No. 67,
2017/18, 32CIV19-180.**

**Pham V. Smithfield Foods, 2025 S.D. 41, No 30859. Judgment entered
July 23, 2025.**

Darling v. W. River Masonry, Inc., 2010 S.D. 4, ¶ 11, 777 N.W.2d 363, 367.

**Baker v. Marsh, 5:22-CV-05068-CBK (D. S.D. Dec 17, 2022). Judgement
entered December 17, 2022.**

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	SD Supreme Court ORDER DISMISSING APPEAL #31440 of Chief Justice Jensen, 04.09.2026
APPENDIX B	SD Supreme Court ORDER #31440 - DENIED, 05.15.2026
APPENDIX C	DOL Letter Decision Dismissal of ALJ Faw, 03.13.2026
APPENDIX D	DOL Ruling and Order of James Marsh, 11.14.2025
APPENDIX E	Sixth Circuit Court Letter Non-jurisdiction of Circuit Court Honor Northrup, 03.18.2026
APPENDIX F	Sixth Circuit Court Appeal Win/Order of Circuit Court Honor Klinger, 12.31.2020
APPENDIX G	Statement of Issues - APPEAL of Unrepresented Claimant 10.02.2019
APPENDIX H	Claimant's Response to ORDER/RULING re: Request for Discovery and related matters 11.23.2025; Claimant's 12.09.2025 PreHearing Followup Letter; DOL 12.10.2025 Canceled Hearing Letter; Claimant's 12.18.2025 Response to DOL 12.10.2025 Letter; Claimant's 01.07.2026 Motion to uphold APPEAL WIN ORDER 12.31.2020, 32CIV19-180; DOL 12.10.2025 Staff Letter with release (received 01.08.2026; DOL 01.09.2026 Judge Faw Letter accepting Employer/insurer's Motion to Dismiss; Claimant's Response to 01.09.2026 DOL Case Dismissal Letter, Employer/Insurer Motion to Dismiss, and Appeal Win Order - 12.31.2020, 32dCIV19-180, and 01.07.2026 Claimant Motion to uphold Appeal Win Order - 12.31.2020, 32dCIV19-180; and Discovery and Expert files.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

42 U.S.C. § 1983, plaintiff must allege that (1) defendant violated a right secured by the Constitution or laws of the United States and (2) defendant was a person acting under the color of state law when doing so. *West v. Atkins*, 487 U.S. 42, 48, 108 S.Ct. 2250, 2255, 101 L.Ed.2d 40 (1988)

WILLIAM RAY BAKER, Plaintiff, v. JAMES E. MARSH, Defendant.
No. 5:22-CV-05068-CBK. United States District Court, D. South Dakota, Western Division December 17, 2022. MEMORANDUM OPINION AND ORDER

Darling v W. River Masonry, Inc., 2010 S.D. 4, ¶10, 777 N.W. The opinion of an examining physician should be given substantial weight when compared to the opinion of a doctor who only conducts a review of medical records; and the DOL agency made factual determinations from review is de novo.

STATUTES AND RULES

US Rule 10; SDCL 58-20, 1-26; SDCL 58-20-204; SDCL 62-4-16 (H.F. No. 45, 2009/10 *Gasser V Twin City Fan Company/Zurich American Insurance Company*; HF. No. 29, 2014/2105 *Thompson V JC Penny/National Union Fire Insurance Co of Pittsburg*; *Beauchamp V Down Chemical Co*, 427 Mich. 1, 298 N.W.2d 882, 893 (1986)); SDCL 21-1-4 and 21-3-2 *Jensen V Sport Bowl*, 469 N.W.2d 370, 372 S.D. 1991); *Caldwell V John Morrell & Co.*, 489 NW2d 353, 358 (S.D. 1992); *Darling V West River Masonry Inc.*, 2010 S.D. 4, P11, 777 NW 2d 363, 367; SDCL 62-1-1-(7). *Day V John Morrell & Co.*, 490 N.W. 2d 720, 724 (S.D. 1992), *Truck Ins. Exch. V CAN*, 2001 SD 46 P11, 658 N.W.2d 388, 390.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☒ reported at South Dakota Government website; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 04.09.2026.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 05.15.2026, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The 5th and 14th Amendments of the US Constitution guarantees every American citizen the right to due process. Rule 10. Under 42 U.S.C. § 1983, DOL James Marsh (1) defendant violated a right secured by the Constitution or laws of the United States and (2) defendant was a person acting under the color of state law when doing so. West v. Atkins, 487 U.S. 42, 48, 108 S.Ct. 2250, 2255, 101 L.Ed.2d 40 (1988).

For compelling reasons the Petitioner Theresa Jensen, pro se, appeals the whole and all parts of the Dismissal of SD Supreme Court 04.09.2026 and Denial of SD Supreme Court 05.15.2026, SD DOL ALJ Faw Dismissal 03.15.2026 and SD DOL Marsh Ruling/Order 11.14.2025 which latter Ruling/Order affirmed the said Dismissal of ALJ Faw in efforts, that has negative effect and impact upon every working American and under your US Supreme Court federal discretion and jurisdiction, with jurisdiction proper pursuant to US Rule 28, 29, 33.1, 33.2, SDCL 1-26-30.2, 1-26-31.

STATEMENT OF THE CASE

This is a Circuit Court Appeal Win case for a "compensable" injury and "outstanding condition from 01.08.2016, and all Discovery and Medical Discovery was submitted by both parties and accepted by DOL Judge Faw - all good. Please review Appendix G for understanding of Statement of Case and Mr. Nasser Brief of Appellant 10.02.2020 on file in SD system. Thank you.

After a 07.08.2025 Status Call with opposing counsel Ms. Hensley and myself, DOL Judge Faw explained not uncommon for WC Hearings to take ten years and said this remanded hearing would be an in-person hearing with testimony and Unrepresented Claimant/Appellant/Petitioner/SD Injured Worker believed Her Honor... and so did opposing council, and then the delay/denying of Round 2 Hearing and care to an injured worker unfolded similar to Round 1, and in Judge Faw's unknown absence to myself and no notification from DOL either, without the injured workers testimony and with all the Medical/Discovery on file, a Mr. Marsh penned a Ruling/Order, releasing estoppel Employer/Insurer from all responsibility with the submitted opposing council affidavit testimony, and DOL staff confirmed on 12.09.2025 when Unrepresented Claimant called for Pre-Hearing that no judges were there and confirmed myself was not notified of new person Mr. Marsh and of Judge Faw's absence, then received DOL letters during Judge Faw's absence and concerned, Unrepresented Claimant filed a Motion to Uphold Appeal Win Hearing 01.07.2026 on day of cancelled Hearing by the DOL, and the DOL did not mention my filed motion but DOL did acknowledge opposing council's received/accepted motion on 01.09.2026, and since the DOL Judge Faw made no mention of my 01.07.2026 Motion and knowing of the Circuit Court Order to accepting Motion of Dismissal from opposing council no mention of my motion so after 60 days, went back to Sixth Circuit Court and filed Motion of Uphold Appeal Win Hearing and then a circuit court split accorded when a new Circuit Judge sent her notice residing over case and out of their jurisdiction, so filed in the SD State Supreme Court, who as you can see with Appendix A and B dismissed/denied; and please review the remaining Appendixes for understanding and discernment. So, the Truth remains in Discovery of my need for care, and the Sanford, Avera and Mayo Clinic doctors who even in 2023 supported the treating physician's medical care for my WC injury and need for care. However, sounds similar to the Round 1 and 2 actions of DOL, Employer, Insurer, and IME Doctor for the Jody Pham vs Smithfield Foods, Sioux Falls 2025 SD WC case and ten years after injury, though a Circuit Court Judge Hoffman had overruled ALJ Faw for accepting the Employer's hired IME doctor's report over the treating physician, and then again our SD Supreme Court (HF No. 8, 2020/21; #30859) disregarded the Circuit Court Judge's decision, a predonance of treating physicians evidence and ruled in favor of DOL/Employer; and similar to William Baker v James Marsh case (2022) experience... so now Unrepresented Claimant/Petition/Injured SD Worker comes to Your Higher Court for care, case resolution, and with my life as evidence for changes needed to your current WC system. Pull up the case files and let us testify...Jody, Dave, William, and myself so we can help change for the good for our family and friends and neighbors who work in this broken legal Employer/Insurer fueled system. Thank you.

REASONS FOR GRANTING THE PETITION

Your U.S. Supreme Honors, respectfully the State of South Dakota does a lot of things right and during April 2026 while at the hospital, a man wearing an orange jumpsuit labeled South Dakota State Penitentiary with shackles around his waist, ankles, and wrists was escorted by a police officer into the waiting room, then made his way back to the doctor area for medical care which is good, we should take care of our various populations...so if all the States can offer medical care for one, they should offer medical care to all their residents, along with rehabilitation and disability benefits... especially for the working injured ones. Thank you.

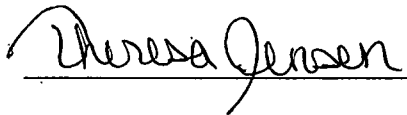
Respectfully, thank you for taking the time to review my case along with other SD WC cases, and allow my testimony to be heard and use my WC injury that has been and remains life altering as was for Jody Pham (2025), William Baker (2022), and my co-worker Dave Dahl (HF No. 81, 2020/21). Respectfully take this time for discerning review of your legal WC process across the United States with intentional efforts to 1) shift the medical care power back to treating medical doctors and their patients, and not paid for IMEs by bad faith Employers/Insurers who have all the time and money resources to delay a WC Hearing and so the SD/American injured workers won't have to endure the not unusual wait of over ten years for a Hearing and to receive medical care, work and physical rehabilitation, and much-needed disability like for Jody, William, Dave and myself; along with 2) the discerning review of current US and State employment laws to get on the same page so-to-speak, more proactive through unity and preventative of legal chaos, especially when working with Unrepresented Claimants like William and myself, and to avoid overburdening the injured, as opposing counsels' duplicating and erroneous evidence submission requests and round tactics, and the DOLs sovereign protection when failing in ethics and procedures to notify of judicial changes and while working outside of their official roles to benefit the bad faith Employers/Insurers as James Marsh repeatedly did only to leave employment and responsibility for unethical decisions that have an impacting life-long negative effect upon the SD injured workers like William and myself, and Jody and Dave too, and daunting the legal system by appealing to Circuit Court Judges whose efforts are overturned by State Supreme Judges in favor of bad faith Employers/Insurers and sovereign protection over DOL Staff operating outside of their roles; instead eliminate the legal chaos for medical conditions across the whole United States; and 3) do as your US Supreme Honors do, establish a NO Case Dismissals allowed approach at the DOL level as well for WC cases should injured workers find themselves hurt at work for bad faith Employers/Insurers; and establish the DOL Officials cannot force the Unrepresented Claimants/non-attorney types to file within the state court online system, instead Clerks accept submissions of paper/disc documents as medical facilities prefer and avoid I-Cloud medical PHI/PHI information losses; and finally, return WC rightly to the medical perspective, give doctors back their power so they don't make those pained WC faces when treating your injured workers, and receiving care without interruption per their treating physicians, and making the Employers bear responsibility for their workers and Insurers bear financial responsibility for their product, a WC care package with no out-clause... and set precedence, use Jody, William, Dave, and my SD WC cases to help cause these positive changes because diversity is real, the SD Workforce has a high number of non-English speaking workers on the factory floors as does the whole tapestry of American workforce. Thank you.

Your U.S. Supreme Honors, respectfully thank you for accepting my 08.12.2026 WRIT OF CERTIORARI with Appendix for your review and decision, corrections 09.01.2026; and mercifully grant a suffering Unrepresented Petitioner/SD injured worker due process and medical care that was wrongfully interrupted, lost, and so desperately needed, for an "outstanding condition" and "compensable" injury that potentially effects every American worker; and said injured SD worker declares under the penalty of perjury that the foregoing is true and correct to the best of my knowledge this 1st day of September, 2026. Thank you.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: September 1, 2026