

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

IN THE SUPREME COURT

OF THE

JAN 18 2022

STATE OF SOUTH DAKOTA

Shif A. Johnson
Clerk

* * * *

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

BRANDON DEAN SCOTT,
Defendant and Appellant.

) ORDER DIRECTING ISSUANCE OF
) JUDGMENT OF AFFIRMANCE
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#29608

The Court having, pursuant to SDCL 15-26A-87.1(A), considered all of 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

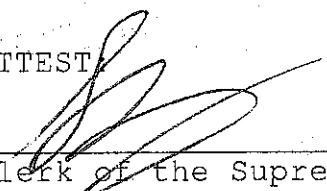
ORDERED that a judgment affirming the Judgment of the lower court be entered forthwith.

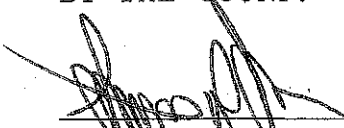
The Court declines to consider the merits of Appellant's ineffective assistance of counsel claim because the record on direct appeal does not afford an adequate basis to review the performance of trial counsel. [(See *State v. Vortherms*, 2020 S.D.67, ¶30, 952 N.W.2d 113, 120).]

DATED at Pierre, South Dakota, this 18th day of January, 2022.

BY THE COURT:

ATTEST


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.