

IN THE SUPREME COURT

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

OF THE

FEB 22 2022

STATE OF SOUTH DAKOTA

Shirley A. Johnson-Lund
Clerk

* * * *

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

ZACHARY DIETZ,
Defendant and Appellant.

) ORDER DIRECTING ISSUANCE OF
) JUDGMENT OF AFFIRMANCE
)
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#29655 #29656

The Court having considered the briefs filed in the above-entitled matter, together with the appeal record, and concluded pursuant to SDCL 15-26A-87.1(A), 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 clearly controlled by settled South Dakota law or federal law binding upon the states (SDCL 15-26A-87.1(A)(1)), now, therefore, it is

ORDERED that a judgment affirming the Judgments of the circuit court be entered forthwith.

The Court declines to consider the merits of Appellant's ineffective assistance of counsel claim(s) 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 22nd day of February, 2022.

BY THE COURT:

ATTEST:

[Signature]
Clerk of the Supreme Court
(SEAL)

[Signature]
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.