

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

OCT 11 2022

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Shirley A. Johnson-Leged
Clerk

* * * *

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

ORDER DIRECTING ISSUANCE OF
JUDGMENT OF AFFIRMANCE

vs.

#29764

MUSTAFE A. HAMUD,
Defendant and Appellant.

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 factual and there clearly is sufficient evidence to support the below (SDCL 15-26A-87.1(A)(2)), now, therefore, it is

ORDERED that a judgment affirming the Judgment 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 11th day of October, 2022.

BY THE COURT:

ATTEST:

Steven R. Jensen
Steven R. Jensen, Chief Justice

[Signature]
Clerk of the Supreme Court
(SEAL)

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