

IN THE SUPREME COURT

FEB 20 2024

OF THE

STATE OF SOUTH DAKOTA

Shif A. Johnson-Legal
Clerk

* * * *

STATE OF SOUTH DAKOTA,)	ORDER DIRECTING ISSUANCE OF
Plaintiff and Appellee,)	JUDGMENT OF AFFIRMANCE
)	
vs.)	#30208
)	
JORGE ARTURO MONTES,)	
Defendant and Appellant.)	
)	

The Court considered all of 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 following grounds: 1. that the issues on appeal are clearly controlled by settled South Dakota law or federal law binding upon the states, 2. that the issues on appeal are factual and there clearly is sufficient evidence to support the verdict and 3. 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)(1), (2) and (3)), 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

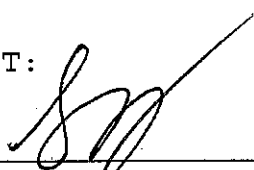
#30208, Order

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 20th day of February, 2024.

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.