

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

CHARLES RUSSELL RHINES,)
Plaintiff and Appellant,)
vs.)
SOUTH DAKOTA DEPARTMENT OF)
CORRECTIONS, MIKE LEIDHOLT,)
SECRETARY, SOUTH DAKOTA)
DEPARTMENT OF CORRECTIONS,)
and DARIN YOUNG IN HIS)
CAPACITY AS WARDEN OF THE)
SOUTH DAKOTA STATE)
PENITENTIARY,)
Defendants and Appellees.)

ORDER DENYING STAY
OF EXECUTION

#29166

On October 31, 2019, appellant served and filed a notice of appeal from an order denying application for a temporary restraining order, preliminary injunction, and stay of his execution set for the week of November 3, 2019. Appellant has filed a motion for stay of execution pending the appeal to this Court and appellee filed a response. The Court considered appellant's motion and supporting documents, the State's response and the whole of the circuit court's memorandum opinion and order of October 31, 2019, denying appellant's motion for a preliminary injunction and stay of execution. The Court also considered and weighed the factors for issuance of a preliminary injunction or stay of execution including the likelihood of success on the merits, the likelihood of irreparable injury absent

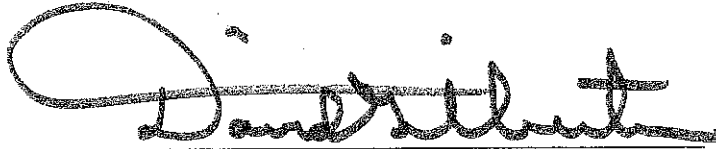
#29166, Order

preliminary relief, the balance of equities, and the public interests. Now, therefore, being fully advised in the premises, it is

ORDERED that appellant's motion for a stay pending appeal is hereby DENIED.

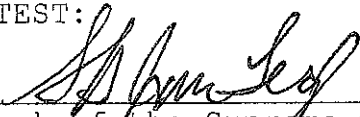
DATED at Pierre, South Dakota, this 4th day of November, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



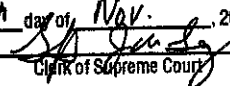
Clerk of the Supreme Court
(SEAL)

(Justices Janine M. Kern and Patricia J. DeVaney disqualified.)

PARTICIPATING: Chief Justice David Gilbertson and Justices Steven R. Jensen and Mark E. Salter and Circuit Court Judges Michelle K. Comer and Kent Shelton.

STATE OF SOUTH DAKOTA
In the Supreme Court

I, Shirley A. Jameson-Fergel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

4th day of Nov. 20 19

Clerk of Supreme Court

Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

NOV - 4 2019


Clerk