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Press Release - For Immediate Release

Elk Point, S.D. – State's Attorney Jerry A. Miller said today that Circuit Court Judge, Steven R. Jensen, signed an Order Denying Petitioner's Habeas Corpus Action in the file of Allen Pierce v. Douglas Weber, the Warden of the South Dakota State Penitentiary. In this action Pierce, claimed that his original defense counsel was ineffective. Specifically, Pierce claims that over nine and half years ago, the sentencing judge failed to follow the plea agreement reached between the defense and the State. Pierce admitted he did not retain any of his legal papers after he was paroled following his five years of incarceration. Pierce was placed back into the penitentiary for a parole violation. Pierce's claim stems from his recollection of conversations he had with his counsel about the plea agreement. Between Pierce and the other witnesses called, Pierce could not overcome the statutory presumption of prejudice to the State after failing to bring a claim within five years. The effect of this dismissal is to allow Pierce to serve out his original sentence without any change or modification.

Allen Pierce was sentenced by the honorable Arthur L. Rusch (now retired), on January 3, 2002 for two counts of Sexual Contact with a Child Under Sixteen Years of Age. Each offense was classified as a class 3 felony. In 2002, Judge Rusch sentenced Pierce on the first offense to a suspended ten year (10) sentence to the South Dakota State Penitentiary with ten years (10) of supervised probation. On the second sentence, Pierce was sentenced to a consecutive term of fifteen years (15) in the South Dakota State Penitentiary with ten years (10) suspended. According to court documents, Pierce will be supervised for approximately fifteen more years under the authority of either the South Dakota State Penitentiary or the Parole Board based upon Pierce's compliance and cooperation within the system.