

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 12-3338

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Richard Litschewski,

*Plaintiff - Appellant,*

Nancy Litschewski; Aaron Litschewski; Darcy Litschewski; Arica Overby; Steve Overby,

*Plaintiffs,*

v.

Robert Dooley, Warden, Mike Durfee State Prison; John Does; Jane Does;  
Melinda Johnson, Records Administrator, South Dakota State Penitentiary;  
Unnamed Construction Co.,

*Defendants - Appellees.*

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Appeal from United States District Court  
for the District of South Dakota - Sioux Falls

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Submitted: April 18, 2013

Filed: April 23, 2013

[Unpublished]

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Before MURPHY, SMITH, and COLLOTON, Circuit Judges.

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PER CURIAM.

Inmate Richard Litschewski appeals the district court's<sup>1</sup> adverse judgment in his 42 U.S.C. § 1983 action.<sup>2</sup> Upon de novo review, see Bahl v. County of Ramsey, 695 F.3d 778, 783 (8th Cir. 2012) (summary judgment); King v. Iowa Dep't of Corr., 598 F.3d 1051, 1052 (8th Cir. 2010) (Prison Litigation Reform Act's administrative-exhaustion provision), we conclude that affirmance is warranted on the merits, see Wood v. SatCom Mktg., LLC, 705 F.3d 823, 827 (8th Cir. 2013) (summary judgment may be affirmed on any basis supported by record). The judgment of the district court is affirmed, see 8th Cir. R. 47B, and we deny Litschewski's motion to supplement his brief.

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<sup>1</sup>The Honorable Roberto A. Lange, United States District Judge for the District of South Dakota.

<sup>2</sup>We have not considered matters Litschewski has waived on appeal. See Coates v. Powell, 639 F.3d 471, 475 n.5 (8th Cir. 2011).