

**Filed 10/03/19 by Clerk of Supreme Court**

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2019 ND 237

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Byron Whetsel,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

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No. 20190034

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Appeal from the District Court of Ransom County, Southeast Judicial District,  
the Honorable Jay A. Schmitz, Judge.

**AFFIRMED.**

Per Curiam.

Darla J. Schuman, Grand Forks, N.D., for petitioner and appellant.

Fallon M. Kelly, Lisbon, N.D., for respondent and appellee.

**Whetsel v. State**  
**No. 20190034**

**Per Curiam.**

[¶1] Byron Whetsel appeals from a district court order denying his application for post-conviction relief. A jury found Whetsel guilty of murder and two counts of child abuse. Whetsel applied for post-conviction relief, alleging ineffective assistance of counsel. After an evidentiary hearing, the district court issued an order denying post-conviction relief. On appeal, Whetsel argues the district court erred in denying his application for post-conviction relief.

[¶2] We summarily affirm under N.D.R.App.P. 35.1(a)(2), concluding the district court's findings are not clearly erroneous, and the court did not err in determining Whetsel received effective assistance of counsel.

[¶3] Gerald W. VandeWalle  
Jerod E. Tufte  
Daniel John Crothers  
Lisa K. McEvers  
Jon J. Jensen