

IN THE COURT OF APPEALS OF IOWA

No. 0-706 / 90-195

FILED

APR - 2 1991

CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

437

vs.

CRAIG E. CREES,

Defendant-Appellant.

Appeal from the Iowa District Court for Story County,
Gary C. McMinimee, Timothy J. Finn, and Steven Van Marel,
Judges.

Defendant appeals his conviction, following a
stipulated bench trial, for operating while intoxicated,
contending he was denied his right to speedy trial.

AFFIRMED BY OPERATION OF LAW.

Linda Del Gallo, State Appellate Defender, and B. John
Burns, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Bruce Kempkes,
Assistant Attorney General, Mary E. Richards, County
Attorney, and Dennis Parmenter, Assistant County Attorney,
for appellee.

Heard by Oxberger, C.J., and Schlegel and Sackett, JJ.,
but decided en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1989).

AFFIRMED.

For affirmance: Donielson, Hayden and Habhab, JJ.

For dismissal: Oxberger, C.J., and Schlegel and Sackett, JJ.