

No. 98-0958. [9-260] STATE v. BACKES

Appeal from the Iowa District Court for Linn County, August F. Honsell, Judge. **AFFIRMED.** Heard by Huitink, P.J., and Streit and Mahan, JJ. Opinion by Streit, J. Sackett, C.J., takes no part. (7 pages \$2.80)

Backes challenges the constitutionality of sections 902.12 and 903.2 of the Iowa Code based on equal protection and separation of powers arguments. One effect of the statute is to require those convicted of robbery in the second-degree to serve a minimum of eighty-five percent of their imposed sentence. Both Backes' equal protection challenges have been definitively ruled upon by our supreme court in *State v. Caesar*, 585 N.W.2d 192, 195 (Iowa 1998). The court found no violation of the equal protection clause because there was a reasonable distinction between second-degree

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robbery and the forcible felonies for which offenders are not required to serve a specific portion of their imposed sentences. Accordingly, Backes challenges to sections 902.12 and 903A.2 are without merit. We hold the general principle declared by our supreme court in *State v. Iowa District Ct. for Shelby County*, 308 N.W.2d at 30, is decisive of Backes' distribution of powers challenge. In *Shelby*, the court declared: "[t]he sentencing process is not the sole province of the judiciary. The legislature possesses the inherent power to prescribe punishment for crime, and the sentencing authority of the courts is subject to that power."