

IN THE COURT OF APPEALS OF IOWA

No. 2-593 / 91-1735

STATE OF IOWA,

Appellant,

vs.

RICHARD LEE RILEY,

Appellee.

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Appeal from the Iowa District Court for Muscatine County, James A. Weaver, District Associate Judge.

The State has been granted discretionary review of a district court order granting defendant Richard Riley's motion to suppress evidence seized pursuant to a warrantless search of a vehicle in which he was a passenger. AFFIRMED BY OPERATION OF LAW.

Bonnie J. Campbell, Attorney General, Amy M. Anderson, Assistant Attorney General, William E. Creasey, County Attorney, and Suzanne Elwell, Assistant County Attorney, for appellant.

Linda Del Gallo, State Appellate Defender, and Shari Barron, Assistant State Appellate Defender, for appellee.

Heard by Oxberger, C.J., and Hayden and Habhab, 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) (1991) .

AFFIRMED.

For affirmance: Schlegel, Hayden, and Sackett, JJ.

For reversal: Oxberger, C.J., and Donielson and Habhab, JJ.