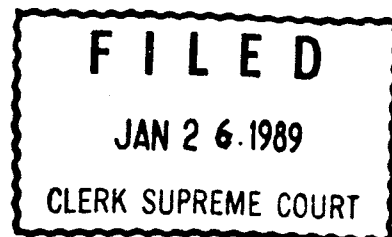


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
KENNETH R. MCKETTRICK,)
Defendant-Appellant.)

339

8-596
87-896

Appeal from the Iowa District Court for Woodbury County
(No. 42379), Richard J. Vipond, Judge.

The defendant appeals his conviction by a jury.

AFFIRMED.

Raymond E. Rogers, Acting Chief Appellate Defender, for
defendant-appellant.

Thomas J. Miller, Attorney General; Christie J. Scase,
Assistant Attorney General; and Michael M. Hobart, County
Attorney, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

OXBERGER, C.J.

Defendant, Kenneth McKettrick, appeals from his jury trial where he was convicted of first-degree murder, assault while participating in a felony causing serious injury, and assault while participating in a felony without causing serious injury. The defendant contends the trial court erred by submitting willful injury to the deceased as a predicate offense for felony murder. He urges that because willful injury is clearly a lesser included offense of premeditated murder, the willful injury merges with the homicide and cannot be the underlying offense for a felony murder conviction. We find State v. Beeman, 315 N.W.2d 770, 776-77 (Iowa 1982) to reject such an argument. Accordingly, we affirm.

AFFIRMED.