

IN THE COURT OF APPEALS OF IOWA

No. 4-303 / 93-1590

FILED

SEP 16 1994

CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

ROBERT W. MARSHALL,

Defendant-Appellant.

Appeal from the Iowa District Court for Kossuth County,
Walter B. MacDonald, District Associate Judge, and Murray
Underwood, Senior Judge.

The defendant challenges his conviction, following a
jury trial, of assault with intent to commit sexual abuse.

AFFIRMED BY OPERATION OF LAW.

Linda Del Gallo, State Appellate Defender, and Kevin
Cmelik, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Bridget A.
Chambers, Assistant Attorney General, William McNertney,
County Attorney, and David C. Skilling, Assistant County
Attorney, for appellee.

Considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1993).

AFFIRMED.

For affirmance: Donielson, C.J., and Habhab and Cady, JJ.

For reversal and remand for a new trial: Hayden, Sackett, and Huitink, JJ.