

IN THE COURT OF APPEALS OF IOWA

No. 2-386 / 91-884

FILED

NOV 30 1992

CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

ELIAS WALTER WANATEE,

Defendant-Appellant.

Appeal from the Iowa District Court for Woodbury County, Dewie J. Gaul, Judge.

Elias Wanatee appeals from his convictions, following a jury trial, of first-degree murder and willful injury.

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, Thomas S. Tauber, Assistant Attorney General, Thomas Mullin, County Attorney, and Clinton L. Spurrier, Assistant County Attorney, for appellee.

Heard by Donielson, P.J., and Hayden 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) (1991).

AFFIRMED.

For affirmance: Donielson, Hayden and Habhab, JJ.

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