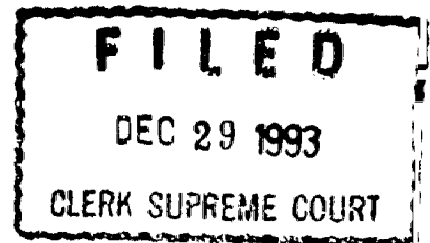


IN THE COURT OF APPEALS OF IOWA

No. 3-353 / 92-1027



STATE OF IOWA,

Appellee,

vs.

DOUGLAS MARK HIEMSTRA,

Appellant.

000779

Appeal from the Iowa District Court for Polk County,
Matthew McEniry, District Associate Judge.

The defendant appeals the district court's judgment and sentence finding him guilty of operating while under the influence of alcohol in violation of Iowa Code section 321J.2 (1991). **AFFIRMED BY OPERATION OF LAW.**

Jeffrey L. Goodman of Shearer, Templer, Pingel & Kaplan, P.C., West Des Moines, for appellant.

Bonnie J. Campbell, Attorney General; Richard J. Bennett, Assistant Attorney General; John P. Sarcone, County Attorney; and Jeff Noble, Assistant County Attorney, for appellee.

Heard by Donielson, P.J., Schlegel, J., and Keefe, S.J.*, but decided by Oxberger, C.J., and Donielson, Schlegel, Hayden, Sackett, and Habhab, JJ.

*Senior judge from the 1st Judicial District serving on this court by order of the Iowa Supreme Court.

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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, Hayden, and Habhab, JJ.

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