IN THE COURT OF APPEALS OF IOWA

No. 2-113 / 90-1451

FILED
MAY 28 1992
CLERK SUPREME COURT

1226

STATE OF IOWA,

Plaintiff-Appellee,

vs.

JEANA MARIE PARKER,

Defendant-Appellant.

Appeal from the Iowa District Court for Johnson County, Larry J. Conmey, Judge.

Defendant appeals the judgment and sentence entered upon her conviction for fraudulent practices in the first degree. **AFFIRMED BY OPERATION OF LAW.**

Linda Del Gallo, State Appellate Defender, and Andi S. Lipman, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Andrea Jordan, Assistant Attorney General, J. Patrick White, County Attorney, and Anne Lahey, Assistant County Attorney, for appellee.

Heard by Hayden, P.J., and Sackett 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.

Donielson, Hayden, and Habhab JJ., would affirm.

Oxberger, C.J., and Schlegel and Sackett, JJ., would (1) dismiss the charges against defendant arising from events before May 1985, (2) remand for a new trial on charges arising from events after May 1985, and (3) affirm on the other issues raised on appeal.