FILED
APR 26 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-580 / 92-1342

STATE OF IOWA,

Appellee,

vs.

TIMOTHY JAMES LANGE,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, Roger F. Peterson and James C. Bauch, Judges.

Defendant appeals his conviction for the crime of possession of a controlled substance with intent to deliver. **AFFIRMED BY OPERATION OF LAW.**

Linda Del Gallo, State Appellate Defender, and Shari Barron, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General; Thomas S. Tauber, Assistant Attorney General; Thomas J. Ferguson, County Attorney; and Henry Bevel, Kim Griffith, and Shawn Wehde, Assistant County Attorneys, for appellee.

Heard by Oxberger, C.J., Habhab, J., and McCartney, S.J.*, but decided by Donielson, C.J., and Hayden, Sackett, Habhab, Cady, and Huitink, JJ.

*Senior judge from the 2nd Judicial District serving on this court by order of the Iowa Supreme Court.

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: Hayden, Sackett, and Huitink, JJ.