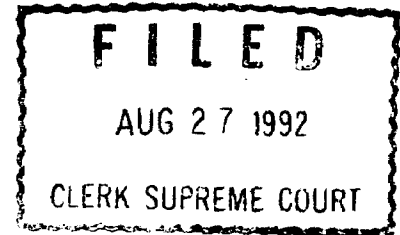


IN THE COURT OF APPEALS OF IOWA

No. 2-207 / 90-1841



STATE OF IOWA,

Plaintiff-Appellee,

vs.

ROBERT ANTHONY LEE,

Defendant-Appellant.

Appeal from the Iowa District Court for Polk County,
Ray Hanrahan, Judge.

Defendant appeals a judgment and sentence, following a jury trial, finding him guilty of murder in the second degree. **AFFIRMED BY OPERATION OF LAW.**

John P. Messina, Des Moines, for appellant.

Bonnie J. Campbell, Attorney General; Martha Boesen, Assistant Attorney General; John P. Sarcone, County Attorney; and Nan Horvat, Assistant County Attorney, for appellee.

Heard by Donielson, P.J., and Schlegel 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, P.J., and Sackett and Habhab, JJ.

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