FILED
JAN 2 9 1991
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-559 / 89-1664

369

STATE OF IOWA,

Appellee,

vs.

BEVERLY MARIE DAVIS,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Michael S. Walsh, Judge.

Defendant appeals her jury conviction of second-degree murder. **AFFIRMED BY OPERATION OF LAW.**

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

Bonnie J. Campbell, Attorney General, Richard J. Bennett, Assistant Attorney General, Thomas S. Mullin, Woodbury County Attorney, Mark Campbell, Assistant County Attorney, for appellee.

Heard by Schlegel, 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) (1989).

AFFIRMED.

For affirmance: Donielson, Sackett and Habhab, JJ.

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