

IN THE COURT OF APPEALS OF IOWA

No. 9-508 / 88-1067

FILED

DEC 21 1989

CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

KEVIN BOLEY,

Defendant-Appellant.

387

Appeal from the Iowa District Court for Wapello County,
James P. Reilly and Dan F. Morrison, Judges.

Defendant appeals his conviction for first-degree
murder and first-degree robbery following a jury trial.

AFFIRMED BY OPERATION OF LAW.

William L. Wegman, State Public Defender, and James F.
Whalen, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sarah J. Coates,
Assistant Attorney General, and William H. Appel, Wapello
County Attorney, for appellee.

Heard by Donielson, P.J., and Sackett and Habhab, JJ.,
but considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1987).

AFFIRMED.