

In the Iowa Supreme Court

No. 22–1419

Polk County No. LACL145293

ORDER

Katherine Avenarius and Paul Avenarius,

Appellees,

vs.

State of Iowa,

Appellant.

The court, May, J., taking no part, being evenly divided, declares this case affirmed by operation of law. *See* Iowa Code § 602.4107 (2024).

The district court denied the State’s partial motion for summary judgment. We granted the State’s application for interlocutory review and transferred the case to the court of appeals. The court of appeals affirmed. Christensen, C.J., and Oxley and McDermott, JJ., would affirm the court of appeals decision and district court judgment; Waterman, Mansfield, and McDonald, JJ., would vacate the court of appeals decision and reverse the district court judgment. *See State v. Effler*, 769 N.W.2d 880, 884 (Iowa 2009) (“[W]hen the supreme court is equally divided . . . , the decision of the district court is affirmed by operation of law.”).

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