

IN THE COURT OF APPEALS OF IOWA

No. 9-903 / 08-1948
Filed February 10, 2010

STATE OF IOWA,
Plaintiff-Appellant,

vs.

CHRISTOPHER WAYNE JAMES SWINGER,
Defendant-Appellee.

Appeal from the Iowa District Court for Plymouth County, Jeffrey A. Neary
Judge.

The State appeals from the district court ruling granting the defendant's
motion to dismiss. **AFFIRMED BY OPERATION OF LAW.**

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, and Darin J. Raymond, County Attorney, for appellant.

Mark C. Smith, State Appellate Defender, and Bradley Bender, Assistant
Appellate Defender, for appellee.

Considered en banc.

PER CURIAM

The State appeals from the district court ruling granting the defendant's motion to dismiss. It contends the court erred in concluding the dismissal of the prior charges was on speedy indictment grounds, not in the furtherance of justice. It further contends the court erred in concluding the new charges were for the "same offense" as the earlier charges.

The court being equally divided, the district court's ruling is affirmed by operation of law. Iowa Code § 602.5106(1) (2009).

AFFIRMED BY OPERATION OF LAW.