

IN THE COURT OF APPEALS OF IOWA

No. 9-908 / 09-0059
Filed February 10, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CHRISTOPHER WAYNE JAMES SWINGER,
Defendant-Appellant.

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 M. Bender,
Assistant Appellate Defender, for appellee.

Considered en banc.

PER CURIAM

The State appeals from the district court ruling granting defendant Christopher Swinger's motion to dismiss. The State contends the court erred in concluding the State's dismissal of Swinger's prior charges was on speedy trial grounds and 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.