

IN THE COURT OF APPEALS OF IOWA

FILED

SEP 25 1984

CLERK SUPREME COURT

STATE OF IOWA,

)

Plaintiff-Appellee,

)

Filed September 25, 1984 156

vs.

)

CHARLES V. DUNHAM,

)

4-288
83-1340

Defendant-Appellant.

)

Appeal from the Iowa District Court for Poweshiek County - Max. H. Ruschmeyer, Judge.

The defendant appeals from his conviction for the serious misdemeanor of violating the Campaign Finance Disclosure Act, Iowa Code chapter 56, by willfully failing to file a report within the required time. AFFIRMED.

Charles Harrington, Appellate Defender, and Patrick R. Grady, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Sherie Barnett, Assistant Attorney General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Snell and Hayden, JJ.

PER CURIAM

The defendant, Charles V. Dunham, ran unsuccessfully for an Iowa State Senate seat in 1980. After the 1980 election, Dunham was accused of violating the Campaign Finance Disclosure Act, Iowa Code chapter 56, by willfully failing to file a report within the time required by section 56.6.

Under Iowa Code section 56.6, the treasurer of a campaign committee is required to file contribution disclosure reports on the 25th of January, May, July, and October of each year. The defendant eventually filed all of the reports, however, he was delinquent in filing the reports for October, 1980, January, 1981, and May, 1981. Originally, the defendant was charged with three counts of violation of section 56.6: count I alleged a failure to timely file for October, 1981; count II alleged a failure to timely file for January, 1981; and count III alleged a failure to timely file for May, 1981. Following the presentation of the evidence at the trial, the State made a motion to withdraw counts II and III. It conceded the evidence presented indicated that Mr. Robert Dentel, not the defendant, was the treasurer in January and May of 1981 and that there was no showing of a willful violation with regard to those two filing omissions. The defendant, appearing pro se, made a motion to dismiss as to count I which the court overruled.

A jury found Dunham guilty of one count of violating the Campaign Finance Disclosure Act, a serious misdemeanor. Dunham has appealed from the resulting conviction. Dunham contends the trial court should have granted his motion to dismiss the charge; he asserts the evidence was insufficient as a matter of law to permit a rational jury to find that he had violated the Campaign Finance Disclosure Act. He notes that the statute imposes the reporting duty on a campaign treasurer rather than on the candidate personally. He asserts that he was not the treasurer of his own campaign and therefore cannot be convicted under the statute. The State responds that the evidence raises a jury question as

to whether or not Dunham was serving as his own campaign treasurer at the time the report in question was due.

In State v. Dahlstrom, 224 N.W.2d 443 (Iowa 1974), the Iowa Supreme Court discussed the standard for determining whether the trial court acted properly in overruling a defendant's motion for a directed verdict. The court stated:

In a criminal action the cause should be submitted to the jury and the court should not direct a verdict of acquittal if there is any substantial evidence reasonably tending to support the charge. State v. Youngbear, 203 N.W.2d 274, 279 (Iowa 1972); State v. Clay, 213 N.W.2d 473, 481 (Iowa 1973); State v. Gray, 216 N.W.2d 306, 308 (Iowa 1974).

To sustain the overruling of a motion for directed verdict, "any evidence, circumstantial or direct, must be sufficient to raise a fair inference of guilt." There must be more than "a suspicion, speculation or conjecture. * * * [citing authority]." State v. Williams, 179 N.W.2d 756, 758 (Iowa 1970).

In making a determination as to the propriety of the court's ruling on a motion for directed verdict in a criminal case this court views the evidence in the light most favorable to the state regardless of whether it is contradicted and every legitimate inference that may be fairly and reasonably deducted therefrom must be carried to the aid of the evidence. Kirschbaum v. United States, 407 F.2d 562, 563 (8th Cir. 1969).

224 N.W.2d at 447-48.

We find that the trial court properly overruled the defendant's motion for a directed verdict. The report which was due on October 25 was received by the Campaign Disclosure Commission on November 3. The defendant had signed his name to the report in the place designated for the signature of the "Treasurer." Mr. Dentel testified that he did not remember when he became treasurer but indicated that he did not prepare the report which was due on October 25, 1980.

The defendant asserts that the State is proceeding under Iowa Code section 56.13 which imputes to a candidate any action taken by any person or political committee on behalf of a candidate. While this might have been the basis for the State's case initially, there is no indication that it was the basis for

the trial court's ruling. In stating its reasons for submitting the case to the jury, the trial court said:

I don't know whether the actions of a treasurer can be imputed to you criminally or not. I let this matter go to the jury based on the fact that you had signed the initial report as treasurer; therefore, you were acting as treasurer and therefore your actions—your treasurer's actions weren't imputed to you. They were actually your actions.

The evidence presented raises a fair inference of guilt in this case. The defendant received notice on September 11, 1980, that he would be required to submit the report on or before October 25. The report was late, incomplete, and contained mathematical errors. The defendant, not Mr. Dentel, signed the report and indicated that he was the treasurer.

We affirm the trial court's ruling overruling the defendant's motion to dismiss count I.

AFFIRMED.