

202 Conn. App. 355 JANUARY, 2021 355

State v. Williams

burden of proving damages “with reasonable certainty.”
(Internal quotation marks omitted.) *Gianetti v. Norwalk Hospital*, supra, 304 Conn. 780.

The judgment is affirmed.

In this opinion the other judges concurred.

STATE OF CONNECTICUT v. DIANE WILLIAMS
(AC 40953)

Elgo, Cradle and Devlin, Js.

Syllabus

The defendant, who had been convicted of the crime of larceny in the first degree, appealed to this court, challenging various evidentiary rulings by the trial court and its denial of her request to secure the attendance at trial of several out-of-state witnesses pursuant to statute (§ 54-82i). The defendant had been a finance director for the state chapter of the American Red Cross and was responsible for reporting payroll information to P Co., which produced payroll checks and made direct deposits into American Red Cross employees' bank accounts. The defendant was responsible for using SPIN, an online reporting system, to report employee salaries and benefits to the national chapter of the American Red Cross. After the defendant's employment was terminated following a merger of several American Red Cross chapters, her responsibilities were taken over by L, the chief financial officer for the Connecticut American Red Cross. L compared P Co.'s records to the SPIN reports that the defendant had submitted and discovered that the defendant had paid herself \$409,647.47 more than she was entitled to while she was employed by the American Red Cross. Thereafter, the defendant gave state police detectives a written, six page statement in which she admitted that she had embezzled money from the American Red Cross. *Held:*

1. The defendant could not prevail on her claim that the trial court abused its discretion in admitting the SPIN reports into evidence pursuant to the statutory (§ 52-180) business records exception to the rule against hearsay because nothing in L's testimony indicated that the American Red Cross prepared the SPIN reports in the regular course of business; the record plainly indicated that the three statutory requirements for the admissibility of the SPIN reports under the business records exception

NOTE: These pages (202 Conn. App. 355 and 356) are in replacement of the same numbered pages that appear in the Connecticut Law Journal of 26 January 2021.

State v. Williams

to the hearsay rule were satisfied, as L testified that the defendant was responsible for submitting individual payroll information to the national chapter of the American Red Cross, that the national chapter of the American Red Cross would create SPIN reports for pension and insurance purposes, and that the creation of SPIN reports was in the normal course of business for the national chapter of the American Red Cross.

2. The trial court did not abuse its discretion in sustaining various evidentiary objections by the state to certain documents and testimony that the defendant proffered at trial, the defendant having failed to demonstrate that any of the court's rulings were harmful; the state presented overwhelming evidence of the defendant's guilt, most notably her confession, which she read, signed and corrected, and which was sufficiently corroborated by her intimate knowledge of the details of the crime and the testimony of one of the detectives that the defendant reviewed and understood the statement before swearing to its accuracy.
3. The defendant's claim that the trial court abused its discretion by denying her request for certificates to subpoena out-of-state witnesses pursuant to § 54-82i (c) and by considering the timeliness of her request was unavailing:
 - a. The limited nature of the defendant's proffer at trial failed to demonstrate that the witnesses were material and necessary, as she provided generalized allegations in her written applications as to what they could testify to and what documents they could provide, her appellate counsel's more specific references to offers of proof at oral argument before this court pertained to collateral issues that were immaterial to whether she embezzled funds, and much of the proffered testimony would have been cumulative because similar issues had already been explored during cross-examination; moreover, the defendant made no offer of proof that the testimony of the proposed witness who was the source of the SPIN information would have challenged the reliability or authenticity of the SPIN reports.
 - b. The trial court's consideration of timeliness and delay as a factor in determining whether to grant the defendant certificates was not an abuse of discretion: contrary to the defendant's claim that whether she would have had the time to secure the witnesses was not relevant, a delay of the trial for an indeterminate amount of time as a result of the issuance of the certificates was not inconsequential, as the court had confirmed the trial schedule with counsel so that it could advise venirepersons of the time commitment expected of them at trial, and considered that the case had been pending for more than five and one-half years and that the defendant could have taken numerous steps to secure the testimony of the witnesses in the fifteen months since the mistrial in this case; moreover, nothing in § 54-82i (c) impaired the court's obligation to oversee the management of the trial and the impact that delays