

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T21-0016
	:	21401500894
PHILLIP BROWN	:	

DECISION

PER CURIAM: Before this Panel on January 26, 2022—Magistrate DiChiro (Chair), Chief Magistrate DiSandro, and Magistrate Kruse Weller, sitting—is Phillip Brown’s appeal from a decision of Magistrate Noonan, sustaining the charged violation of G.L. 1956 § 31-12-3, “Obedience to Police Officers[.]” Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

I

Facts and Travel

On June 4, 2021, the Central Falls Police Department charged Phillip Brown (Appellant) with the aforementioned violation of the motor vehicle code. *See* Summons No. 21401500894. Appellant contested the charge, and the matter proceeded to trial on August 6, 2021.

At trial, Officer Robert Matook (Officer Matook)¹ testified that on June 4, 2021, Officer Matook was working as a detail for a Broad Street Construction project. (Tr. at 1.) Officer Matook was in a marked uniform police vehicle, located on Hunt Street at Medeira. *Id.* Officer Matook’s police vehicle was blocking the east travel lane heading towards Broad Street in such a manner

¹ In the transcript Appellant submitted, the testifying officer is referred to as Officer Robert Mato and Officer Matek. (Tr. at 1, 4.) However, upon further investigation and after listening to the recording, the testifying officer is most likely Officer Robert Matook of the Central Falls Police Department.

that all eastbound traffic on Hunt Street had to either turn right onto Hardwin Street or left onto Medeira. *Id.* At approximately 2:00 p.m. on the date of the charged violation, the owner of a home on Hardwin Street notified Officer Matook that there was a traffic problem caused by an operator refusing to move his vehicle either forward or out of the road. *Id.*

Officer Matook testified that he arrived at the scene of the incident in a marked uniform police vehicle and found Appellant adamantly refusing to move Appellant's vehicle. *Id.* Officer Matook explained that there was a tractor trailer that could not move unless Appellant drove slightly onto low sidewalk. *Id.* Officer Matook said that Appellant refused to drive onto the sidewalk because Appellant did not want to ruin the rims of Appellant's low-profile tires. *Id.* Officer Matook pointed out that the sidewalk had only between one-half inch and three-quarter inch reveal, rather than the typical five-and-a-half-inch reveal. *Id.* Officer Matook instructed Appellant to proceed into a driveway entrance, ride the sidewalk, and exit from a different driveway entrance, but Appellant refused. *Id.* at 1-2. After ten minutes of Appellant refusing to move, Officer Matook called for additional assistance. *Id.* at 2. Officer Matook informed Appellant that if Appellant failed to cooperate, Officer Matook would have Appellant's car towed and Appellant would be arrested. *Id.* Next, Officer Matook told Appellant that he would be backing up his police vehicle and instructed Appellant to follow, so that the matter could be handled in a different area. *Id.* Officer Matook explained that Appellant responded to this request by yelling and screaming. *Id.* Officer Matook testified that after Appellant's yelling and screaming, Appellant drove onto the curb and proceeded "forcibly" down the street. *Id.*

Officer Matook said that he conducted a traffic stop of Appellant in a safer area with additional units arriving to assist. *Id.* Officer Matook testified that during the stop, Appellant behaved in an aggressive manner. *Id.* For safety purposes, Officer Matook and the assisting

officers searched Appellant for weapons and checked that Appellant's license was in good-standing. *Id.* Subsequently, the Central Falls Police Department issued Appellant a citation for the aforementioned violation. *Id.*

Appellant was next to speak at trial. *Id.* Appellant argued he should not have had to drive on the curb and risk damaging his car. *Id.* Next, Appellant stated that driving on the curb resulted in a scratch on the rim of Appellant's vehicle. *Id.* When the Trial Magistrate asked Appellant if there was a photograph of the alleged damage, Appellant was unable to present a photograph. *Id.* at 2-3. Appellant reiterated "I SHOULDN'T HAVE TO JUMP ON THE CURB." *Id.* at 3.

The Trial Magistrate found Appellant guilty of the aforementioned violation and imposed a fine of \$100, which was the minimum of the \$100-\$500 range. *Id.* at 4. In his reasoning, the Trial Magistrate noted that the law requires obedience of police officer's lawful orders. *Id.* The Trial Magistrate found that Officer Matook's testimony was credible and that the testimony proved Appellant was guilty of violating § 31-12-3, "Obedience to Police Officers" by clear and convincing evidence. *Id.* On the other hand, the Trial Magistrate found that Appellant's testimony was not credible and also not substantiated by anything that had a bearing on the case. *Id.* The Trial Magistrate also said that Appellant had a right to appeal the decision. *Id.* Appellant timely filed the instant appeal.

II

Standard of Review

Pursuant to § 31-41.1-8, the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate of the Rhode Island Traffic Tribunal. Section 31-41.1-8(f) provides in pertinent part:

"The appeals panel shall not substitute its judgment for that of the judge or magistrate as to the weight of the evidence on questions of fact. The appeals panel may affirm the decision of the judge or magistrate, or it may remand the case for further proceedings or reverse or modify the decision if the substantial rights of the

appellant have been prejudicial because the judge’s findings, inferences, conclusions or decisions are:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the judge or magistrate;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

In reviewing a hearing judge or magistrate’s decision pursuant to § 31-41.1-8, this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact.” *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993) (citing *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). “The review of the Appeals Panel is confined to a reading of the record to determine whether the judge’s [or magistrate’s] decision is supported by legally competent evidence or is affected by an error of law.” *Id.* (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the Appeals Panel determines that the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or is affected by error of law, it may remand, reverse, or modify the decision.” *Id.* Otherwise, the Appeals Panel must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

As grounds for appeal, Appellant wrote the following in the Notice of Appeal form: “I feel I shouldn’t have to drive on the sidewalk and possibly ruin my car[.]” Notice of Appeal. Appellant also wrote that the Trial Magistrate did not let him talk. *See id.* At the appeals hearing, Appellant reiterated these same arguments.

Section 31-12-3 provides in pertinent part:

“[n]o person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic, including any order or direction pertaining to fire lane parking violations whether on private or public property.” Sec. 31-12-3.

The “obedience statute” does not prohibit *any and all* noncompliance but only a *willful* failure or refusal to comply. *See State v. Berberian*, 80 R.I. 444, 448, 98 A.2d 270, 272 (1953) (a question of willingness was introduced into the Obedience to Police Officers provision of the Motor Vehicle Code Act); *see also State v. Pascale*, 86 R.I. 182, 185, 134 A.2d 149, 151 (1957) (a municipal ordinance that encompassed any disobedience to a police officer, whether willful or not, impermissibly extended the scope of the state statute which requires such violation to be willful). In Rhode Island, “[i]t is well settled that when the language of a statute is clear and unambiguous, [courts] must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Moore v. Ballard*, 914 A.2d 487, 490 (R.I. 2007) (quoting *Accent Store Design, Inc. v. Marathon House, Inc.*, 674 A.2d 1223, 1226 (R.I. 1996)). The term “willful” is defined as “voluntary and intentional, but not necessarily malicious.” *See Black’s Law Dictionary*, 1599 (8th ed. 2019).

Officer Matook’s testimony is adequate to determine whether the violation was committed willfully because Officer Matook witnessed the events and interacted with Appellant at the scene. *See Tr.* at 1-2. Officer Matook testified that when upon first arrival at the scene of the incident, Appellant adamantly refused to move his vehicle. *Id.* at 1. Officer Matook instructed Appellant to travel into a driveway entrance but again, Appellant refused. *Id.* at 1-2. Appellant refused to move for ten minutes. *Id.* at 2. When Officer Matook instructed Appellant to follow the police vehicle, Officer Matook explained that Appellant responded by yelling and screaming and then drove on

the curb and continued to drive “forcibly” down the street. *Id.* Officer Matook’s testimony clearly demonstrates that Appellant was given lawful orders, which Appellant understood and refused to comply with.

Additionally, both Appellant and Officer Matook testified that the reason Appellant refused to move was a concern for damaging the rims of Appellant’s vehicle. *Id.* at 1-3. Appellant reiterates this reasoning on appeal, arguing “I feel I shouldn’t have to drive on the sidewalk and possibly ruin my car[.]” Notice of Appeal. The fact that Appellant provided a rationale for disobeying Officer Matook’s instructions clearly indicates that Appellant not only understood the instructions to move out of the road, but also that Appellant made a calculated decision to disobey the instructions. Appellant’s own testimony indicates that his failure to comply with Officer Matook’s request was “voluntary and intentional, but not necessarily malicious.” *See* Black’s Law Dictionary, 1599 (8th ed. 2019). Upon review of the trial transcript, this Panel finds that the evidence establishes the offense as charged was committed with the requisite mental state of “willfulness.” *See id.*

This Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge concerning the weight of the evidence on questions of fact.” *Link*, 633 A.2d at 1348 (citing *Janes*, 586 A.2d at 537). As the members of this Panel did not have an opportunity to observe the live testimony of Officer Matook, it would be impermissible for the Panel to second-guess the Trial Magistrate’s impression as he was able to “appraise [the] witness[’s] demeanor and to take into account other realities that cannot be grasped from a reading of a cold record.” *A. Salvati Masonry Inc. v. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017) (internal quotations omitted). To reiterate, “[t]he appeals panel is limited to a determination of whether the

hearing justice's decision is supported by competent evidence." *Marran v. State*, 672 A.2d 875, 876 (R.I. 1996) (citing *Link*, 633 A.2d at 1348).

The members of this Panel conclude that the record establishes that Appellant both willfully failed and willfully refused to comply with a lawful order of a police officer. Based upon Officer Matook's testimony and the evidence on the record, the Trial Magistrate's decision to sustain the charged violation of § 31-12-3 is not erroneous or affected by error of law.

IV

Conclusion

This Panel has reviewed the entire record of this matter. Having done so, the members of this Panel are satisfied that the Trial Magistrate's decision was neither clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record nor arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.

ENTERED:

Magistrate Michael DiChiro (Chair)

Chief Magistrate Domenic A. DiSandro III

Magistrate Erika Kruse Weller

DATE: _____