

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. M21-0007
	:	21415501245
SAUL CHASE	:	

DECISION

PER CURIAM: Before this Panel on March 2, 2022—Chief Magistrate DiSandro (Chair), Magistrate Goulart, and Magistrate DiChiro, sitting—is the appeal of Saul Chase (Appellant) from a decision of Judge Aram Jarrett (Trial Judge), sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to Traffic Control Devices[.]” Appellant appeared before this panel *pro se*. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8. For the reasons set forth in this Decision, Appellant’s appeal is granted.

I

Facts and Travel

On August 13, 2021, at approximately 12:02 p.m., Patrolman Justin Switzer (Patrolman Switzer) of the North Smithfield Police Department charged Appellant with the aforementioned violation of the motor vehicle code. *See* Summons No. 21415501245. Appellant contested the charge, and the matter proceeded to trial on October 20, 2021.

At trial, Patrolman Switzer testified that on the date in question, he was stationed on a traffic post in the driveway of 254 Great Road, which is located just before a construction bridge on that road. (Tr. at 3:16-19.) Patrolman Switzer explained, “The bridge narrows the roadway down to one lane. Rhode Island DOT has posted traffic lights for that bridge to control the traffic.”

Id. at 3:19-22. Patrolman Switzer stated that when the traffic light on his side of the bridge turned green, there was still a vehicle in the middle of the bridge, traveling towards Patrolman Switzer.

Id. at 3:22-4:1. Patrolman Switzer conducted a stop of the vehicle and identified Appellant as the operator of the vehicle. *Id.* at 4:1-2.

Patrolman Switzer also presented a document provided by the Rhode Island Department of Transportation (DOT), which detailed the traffic light intervals. *Id.* at 4:6-8. The Trial Judge requested that Patrolman Switzer explain the contents of the document. *Id.* at 4:16. Patrolman Switzer explained what the document said and the relevancy of the traffic light intervals to the case as follows:

“The light that the [Appellant] was stopped at, it turns green for thirty seconds, yellow for three seconds and red for twelve seconds. So when that light turns red on his side, both lights are red for ten seconds. This was intended so that any vehicle on the bridge can clear before the opposing traffic starts. Because you are on one side, you can’t see traffic on the other side. So it’s to prevent accidents, things like that. With that being said, ten seconds is reasonable for any vehicle to clearly get over the bridge through the green light and even the yellow light. The only way a vehicle is still in the middle of the bridge is they have [gone] thr[ough] the red light on the opposing side. And that is what happened in this situation.” *Id.* at 4:22-5:10.

Next at trial, Appellant had the opportunity to cross-examine Patrolman Switzer. *Id.* at 5:14-10:19. Appellant asked why Patrolman Switzer stopped him, to which Patrolman Switzer responded that Appellant had gone through the red light. *Id.* at 5:19-22. Appellant inquired about the traffic light intervals, and Patrolman Switzer reiterated that both of the lights on each side of the bridge remain red for ten seconds in an effort to allow vehicles to clear the bridge before the light turns green on the other side. *Id.* at 6:2-13. Appellant asked, “Would that change, would those variables change if there’s other cars in front of me[,]” and Patrolman Switzer responded, “It could.” *Id.* at 6:14-16. Appellant expressed concern over the weight of Patrolman Switzer’s

testimony about these intervals, explaining, “if I see a light is green and I have five cars in front of me, it’s going to take x-amount of time to get to the other side [of the bridge]. Now, if there’s no cars in front of me, I’m obviously going to get to the other side a lot faster.” *Id.* at 6:20-24. Next, the following colloquy occurred:

“[APPELLANT]: Was there any cars in front of me? Did you observe any cars in front of me?”

“[PATROLMAN SWITZER]: Yes.

“[APPELLANT]: How many cars were there?”

“[PATROLMAN SWITZER]: I don’t recall.

“[APPELLANT]: You don’t recall. Okay, was there—is there any signs posted that says you have a certain amount of time to get from point A to point B?”

“[PATROLMAN SWITZER]: No.

“[APPELLANT]: No, okay. Now the—the time that I took, do you know the exact amount of time that I took from point—

“[PATROLMAN SWITZER]: No.” *Id.* at 6:24-7:12

Appellant continued to question Patrolman Switzer and also continued to express his concern that the time it takes a vehicle travel across the bridge varies based on the number of cars in front of that vehicle. *Id.* at 7:13-11:1. In addition, Appellant expressed concern that there was not a sign or anything else to indicate that once Appellant approached a green light, he only had ten seconds to make it across the bridge. *Id.* at 7:25-8:3. At a later point during the cross-examination, the following colloquy occurred:

“[APPELLANT]: Now did you pull behind me and pull me over or were you across the bridge?”

“[PATROLMAN SWITZER]: I was already across the bridge.

“[APPELLANT]: Okay, now at that point, I think you stated that, and again, when I’m driving over the bridge, that other light on the other side, is faced, I can’t see the color of that light, is that correct?”

“[PATROLMAN SWITZER]: Yes.

“[APPELLANT]: Okay. And neither could you?”

“[PATROLMAN SWITZER]: No.

“[APPELLANT]: So is it safe to say that this is a judgment call on – is this a judgment call? Is there [] case law that says you have a certain amount of time to get from one side to the other when one light turns green?”

“[PATROLMAN SWITZER]: No.” *Id.* at 10:4-19.

After Appellant finished presenting his arguments, the Trial Judge announced his decision. *Id.* at 10:20-12:16. Ultimately, the Trial Judge sustained the charge based on the testimony of Patrolman Switzer and the document provided by the Rhode Island DOT. *Id.* at 11:4-12:12. The Trial Judge found “by clear and convincing evidence that [Appellant] in fact did drive thr[ough] the red light and was correctly observed by [Patrolman Switzer] on the other side.” *Id.* at 12:10-12.” Appellant timely filed the instant appeal.

II

Standard of Review

Pursuant to § 8-18-9, any person may appeal an adverse decision from a municipal court and seek review from this Panel pursuant to the procedures set forth in § 31-41.1-8. 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 prejudiced 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

On appeal, Appellant argues that he is not guilty of the charged violation because he did not proceed through a red light. *See* Notice of Appeal. In addition, Appellant asserts that Patrolman Switzer’s testimony at trial failed to establish by clear and convincing evidence that Appellant proceeded through a red light. *See id.*

Rule 17 of the Rhode Island Traffic Tribunal Rules of Procedure dictates that “[t]he burden of proof shall be on the prosecution to a standard of clear and convincing evidence.” Traffic Trib. R. P., 17(a). The phrase “clear and convincing evidence” is “more than a mere exercise in semantics. It is a degree of proof different from a satisfaction by a ‘preponderance of the evidence[,]’ which is the recognized burden in civil actions, and different from proof ‘beyond a reasonable doubt[,]’ which is the required burden in criminal suits.” *Parker v. Parker*, 103 R.I. 435, 238 A.2d 57 (1968) (internal citations omitted). Evidence that satisfies the “clear and convincing evidence” standard “must persuade the jury that the proposition is highly probable, or must produce in the mind of the factfinder a firm belief or conviction that the allegations in question are true.” *Cahill v. Morrow*, 11 A.3d 82, 88 n.7 (R.I. 2011) (quoting 29 Am. Jur. 2d *Evidence* § 173 at 188-89 (2008)).

In order to sustain the charged violation of § 31-13-4, the prosecution was required to prove by clear and convincing evidence that Appellant proceeded through a red traffic light.¹ On appeal, this Court’s task is to review the record and determine whether the Trial Judge could have found that it was “highly probable” Appellant entered the intersection after the traffic light turned red. *See Cahill*, 11 A.3d at 88 n.7 (quoting 29 Am. Jur. 2d *Evidence* § 173 at 188-89 (2008)).

Having reviewed the record in its entirety, this Panel finds that the prosecution did not meet the burden of proof set forth in Rule 17. At trial, Patrolman Switzer admitted that he was on a

¹ The Rhode Island General Laws state that “[t]he driver of any vehicle shall obey the instructions of any official traffic control device applicable to him or her placed in accordance with the provisions of chapters 12 -- 27 of this title.” Sec. 31-13-4. In this case, the applicable provision concerning traffic lights reads in pertinent part that “[v]ehicular traffic facing a steady circular yellow signal is warned that the related green movement is being terminated and that a steady red signal will be displayed immediately thereafter when vehicular traffic shall not enter the intersection.” Sec. 31-13-6. Thus, the prosecution was required to prove that Appellant proceeded through a red light, in violation of § 31-13-6, in order to demonstrate that Appellant violated § 31-13-4, “Obedience to traffic control devices.”

different side of the bridge from Appellant and unable to personally observe the color of the traffic light on Appellant's side of the bridge. (Tr. at 10:4-19.) Patrolman Switzer made the assumption that Appellant drove through a red light based on circumstantial evidence. *See id.* at 4:22-5:10. Specifically, Patrolman Switzer based his assumption on the Rhode Island DOT light intervals and the fact that Appellant's vehicle was still on the bridge when Patrolman Switzer's light turned green. *Id.* at 4:22-5:10. However, Appellant cast doubt on the logic of Patrolman Switzer's assumption by pointing out that when there are other vehicles in front of a vehicle that is crossing the bridge, it may take that vehicle more time to get across the bridge. *Id.* at 6:14-15. Patrolman Switzer agreed with Appellant that additional vehicles could cause the time that it takes a vehicle to travel across the bridge to vary. *Id.* at 6:14-16. Patrolman Switzer also acknowledged that there were other vehicles in front of Appellant when Appellant crossed the bridge. *Id.* at 6:24-7:2. If Appellant proceeded through a green light, these additional vehicles could have delayed the time that it took Appellant to travel across the bridge and caused Appellant to remain on the bridge by the time Patrolman Switzer's light turned green. This Panel finds that Patrolman Switzer's testimony was not sufficient to prove the charged violation by clear and convincing evidence because Patrolman Switzer did not personally observe Appellant travel through a red light and Patrolman Switzer's assumption that Appellant ran the red light is flawed.

Based on the entire record, there was not sufficient evidence for the Trial Judge to find that it was "highly probable" Appellant entered the intersection after the traffic light turned red. *See Cahill*, 11 A.3d at 88 n.7 (quoting 29 Am. Jur. 2d *Evidence* § 173 at 188-89 (2008)). The evidence in the record does not support the Trial Judge's determination that Appellant failed to "obey the instructions of any official traffic control device applicable to him[.]" As such, the charged violation of § 31-13-4 cannot be sustained as supported by clear and convincing evidence.

IV

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the Trial Judge's decision was clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *See* § 31-41.1-8(f)(5)-(6). Accordingly, Appellant's appeal is granted, and the charged violation is dismissed.

ENTERED:

Chief Magistrate Domenic A. DiSandro, III (Chair)

Magistrate Alan R. Goulart

Magistrate Michael DiChiro

DATE: _____