

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. M22-0001
	:	21403502389
JASON PATTERSON	:	

DECISION

PER CURIAM: Before this Panel on April 27, 2022—Magistrate DiChiro (Chair), Chief Magistrate DiSandro, and Magistrate Goulart, sitting—is the appeal of Jason Patterson (Appellant) from a decision of Judge Scott Partington of the Cumberland Municipal Court (Trial Judge), sustaining a charged violation of G.L. 1956 § 31-14-2, “Speeding 1 to 10 MPH in excess of posted speed limit – 1st offense[.]” Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8. Appellant was not represented by counsel before this Panel. For the reasons set forth in this decision, the Appellant’s appeal is denied.

I

Facts and Travel

On September 20, 2021, Patrolman Stephen Bannister (Patrolman Bannister) of the Cumberland Police Department charged Appellant with G.L. 1956 § 31-14-2, “Speeding 1 to 10 MPH in excess of posted speed limit – 1st offense[.]” *See* Summons No. 21403502389. Appellant contested the charges, and the matter proceeded to trial on January 18, 2022.

Patrolman Bannister testified that on September 20, 2021, he was stationed on a fixed traffic post located on Abbott Run Valley Road in front of the Old Franklin Farm Barn. (Tr. at 2.) At approximately 8:45 a.m., Patrolman Bannister observed a gray 2011 Mercedes (the vehicle)

traveling southbound at what he estimated to be a higher rate of speed than the posted twenty-five (25) miles per hour speed limit on Abbott Run Valley Road. *Id.* at 2, 3, 6. Patrolman Bannister stated that using the radar in his police cruiser, he obtained the vehicle's speed as thirty-seven (37) miles per hour in a clearly posted twenty-five (25) mile per hour zone. *Id.* at 3, 6. At trial, Patrolman Bannister identified Appellant as the operator of the vehicle. *Id.* at 6.

Patrolman Bannister testified that he had received training in the utilization of radar units at the Rhode Island Municipal Police Training Academy in the class of 2014-2. *Id.* at 2. Patrolman Bannister also explained that he received training on how to estimate the speed of a moving vehicle without the use of radar. *Id.* Patrolman Bannister testified that the radar unit he used on September 20, 2021 was working properly and that he "checked [the radar] both internally and externally." *Id.* at 4. Next at trial, Patrolman Bannister explained the procedure for conducting both internal and external calibrations of a radar unit. *Id.* Patrolman Bannister confirmed that he conducted both methods of calibration on the date of the incident and that the radar passed the tests. *Id.* The prosecution also entered into evidence a certificate of the radar's accuracy, indicating that the radar had been certified on October 30, 2020. *Id.* at 5.

Next at trial, Appellant cross-examined Patrolman Bannister. *Id.* at 6. Appellant asked, "did you pull me over because you saw that I had a temporary plate?" *Id.* Patrolman Bannister stated that he stopped Appellant both for speeding and for the temporary Texas license plate. *Id.* at 7. Patrolman Bannister also explained that he was concerned about the temporary Texas license plate because "Temp plates out of Texas ha[d] been [] used illegally for two, three years [at the time of trial]. As a way to get out of paying taxes and set states." *Id.* Appellant asked why he received a ticket only for speeding and not for the temporary Texas plate, to which Patrolman Bannister responded, "I gave you a warning for that, and the reason why I didn't give you a ticket

for the [temporary plate] is because you're a Massachusetts resident.” *Id.* Patrolman Bannister further explained that if Appellant were a Rhode Island resident, Patrolman Bannister could have cited him for having the temporary Texas plate. *Id.*

After Appellant cross-examined Patrolman Bannister, Appellant presented arguments. *Id.* at 8. First, Appellant noted that the area Patrolman Bannister stopped him in “is very hilly and it is very swervey[,]” which Appellant argued will cause a motorist’s speed to fluctuate when they are traveling on this area of road. *Id.* at 8. Appellant believed that Patrolman Bannister unfairly targeted him because of the temporary Texas license plate. *Id.* Appellant testified that he held this belief because he had been stopped multiple times for the temporary Texas license plate. *Id.*

The Trial Judge found Appellant guilty of the aforementioned violation by clear and convincing evidence. *Id.* at 11. The Trial Judge reasoned that the radar was in proper working order and that this radar unit indicated Appellant was traveling at a rate of thirty-seven (37) miles per hour in a twenty-five (25) mile per hour zone. *Id.* at 10. 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 states that the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate. Section 31-41.1-8(f) provides as follows, 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 Mutual Insurance 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.” *Link*, 633 A.2d at 1348 (citing *Environmental Scientific Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the appeals panel determines that the decision is ‘[c]learly 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.” *Link*, 633 A.2d at 1348 (quoting sections 31-43-4(6)(d) and (e)). “Otherwise, it must affirm the hearing judge's [or magistrate's] conclusions” on appeal. *Id.*; see *Janes*, 586 A.2d at 537.

III

Analysis

Appellant appears to be arguing that he was not speeding and that he was only stopped because of his temporary Texas license plate. *See* Notice of Appeal. Appellant wrote, “[o]nce [Patrolman Bannister] went back to his cruiser and realized that he couldn’t site [*sic*] me for the temp plate, he said he was giving me a speeding ticket. The area I was stopped in is very windy, and has many hills, where speed can vary very quickly.” *Id.*

A

Speeding

In *State v. Sprague*, 113 R.I. 351, 322 A.2d 36 (1974), the Rhode Island Supreme Court held that radar unit readings are admissible as evidence at trial when the testifying officer satisfies two preliminary requirements: the officer must (1) show that “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method,” and (2) provide “testimony setting forth [the officer’s] training and experience in the use of a radar unit[.]” *Sprague*, 113 R.I. at 355-57, 322 A.2d at 39-40.

At trial, Patrolman Bannister demonstrated that the moving radar unit was “tested within a reasonable time and by an appropriate method” because he testified that he “checked [the radar] both internally and externally.” (Tr. at 4.) Patrolman Bannister explained the internal and external methods of calibration and confirmed that the radar successfully passed both tests on the date of the incident. *Id.* The prosecution also entered into evidence a certificate of the radar’s accuracy, indicating that the radar had been certified on October 30, 2020. *Id.* at 5. As such, Patrolman Bannister adequately testified to the operational efficiency of the radar unit and satisfied the first requirement of *Sprague*. *See Sprague*, 113 R.I. at 355-357, 322 A.2d at 39-40. Patrolman Bannister also offered “testimony setting forth [his] training and experience in the use of a radar

unit” by testifying that he had received training in the utilization of radar units at the Rhode Island Municipal Police Training Academy in the class of 2014-2. *Id.* at 2. Therefore, Patrolman Bannister satisfied the second requirement of *Sprague*. *See Sprague*, 113 R.I. at 357, 322 A.2d at 39-40.

B

Credibility

In Appellant’s Notice of Appeal and arguments at trial, Appellant appears to question whether Patrolman Bannister pulled him over for speeding or for the temporary Texas license plate. *See* Notice of Appeal; *See* Tr. at 8. At trial, Appellant argued that he was not speeding, and that Patrolman Bannister stopped him for the temporary Texas license plate. (Tr. at 8.) In his Notice of Appeal, Appellant wrote, “[o]nce [Patrolman Bannister] went back to his cruiser and realized that he couldn’t site [*sic*] me for the temp plate, he said he was giving me a speeding ticket.” Notice of Appeal. However, the Trial Judge found that Appellant was speeding based on Patrolman Bannister’s testimony about the operational efficiency of his radar and his training in the use of radar.

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). Because the members of this Panel did not have an opportunity to observe the live testimony of Patrolman Bannister, it would be impermissible for the Panel to second-guess the Trial Judge’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). Based on Patrolman Bannister's testimony and the evidence on the record, the Trial Judge's decision to sustain the violation is not erroneous or affected by error of law.

IV

Conclusion

This Panel has reviewed the entire record in this matter. Having done so, the members of this Panel are satisfied that the Trial Judge'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 Alan R. Goulart

DATE: _____