

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

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:
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v.

**C.A. No. M21-0002
20303500061**

JUSTIN WOODFORD

DECISION

PER CURIAM: Before this Panel on May 26, 2021— Magistrate DiChiro (Chair), Administrative Magistrate Abbate, and Associate Judge Parker, sitting—is Justin Woodford’s (Appellant) appeal from a decision of Judge Russell Jackson (Trial Judge) of the Newport Municipal Court, sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to stop signs.” The Appellant failed to appear before the Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

I

Facts and Travel

On January 30, 2020, Patrol Officer Matthew Jepson of the Newport Police Department observed a vehicle decelerate but fail to come to a complete stop at a stop sign located at the intersection of Van Zandt Avenue and Hall Avenue. (Tr. at 3.) At that point, Officer Jepson initiated a traffic stop of the vehicle, identified the operator as Justin Woodford (Appellant), and issued Appellant a citation for the above-referenced violation. (Tr. at 4-5.); *see* Summons No. 20303500061.

On March 15, 2021, Appellant challenged the charged violation at trial, which was held at Newport Municipal Court. (Tr. at 1.) Officer Jepson testified at trial that, while parked in a

position north of Van Zandt Avenue and facing the intersection, he observed a black Tesla approach the intersection traveling westbound, decelerate, but proceed straight through, failing to come to a complete stop. *Id.* at 3-4. Officer Jepson then testified that he turned on to Van Zandt Avenue, activated his lights, and initiated the stop. *Id.* at 4. Officer Jepson ran the Appellant's license and conducted a performance check, which resulted in finding that the Appellant had recently been cited at the same intersection for the same violation. *Id.* at 5. Lastly, Officer Jepson testified, "So I decided to write a ticket to the stop sign. And I went back to explain that to the driver." *Id.* On cross-examination, Officer Jepson testified that although there was a hedge present, it did not obstruct his view. *Id.* at 8. He clarified that he "could see the vehicle at the intersection. I also know where the stop line is. I chose that location specifically." *Id.*

Next, Appellant testified on his own behalf. *Id.* at 9. Appellant stated:

I played volleyball down that road. I go[] that route regularly. ... I received a violation for missing that stop sign ... roughly one month prior to that night. And so I remember a specific visit. I was being extra cautious... because, you know, obviously I knew that there was a police cruiser there... prior, so obviously know [one is] likely to be in the same location again. So I remember specifically, I've been cautious in general to just to go [sic] at stop signs. Um there was a whole bunch going down the road on the way out of Newport that I just remember being very diligent about stopping [at] the stop signs that evening. *Id.*

The Trial Judge stated his findings of fact on the record after hearing Officer Jepson's and Appellant's testimony. *Id.* at 11-12. The Trial Judge stated that Officer Jepson's testimony was credible. *Id.* Based on Officer Jepson's testimony, the Trial Judge concluded that the City had met their burden of proof, and found the Appellant guilty of the violation. *Id.* at 12.

The Appellant timely filed an appeal of the Trial Judge's ruling. Forthwith is this Panel's decision.

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 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 Company 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 *Environmental Science Corporation 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, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

On appeal, Appellant makes a statement that the Trial Judge’s decision was biased, without any further elaboration or support for this contention.

The prosecution must prove any violation by clear and convincing evidence. Traffic Trib. R. P. 17(a). A violation is proven by clear and convincing evidence where the trial judge “believe[s] that the truth of the facts asserted by the proponent is highly probable.” *State v. Fuller-Balletta*, 996 A.2d 133, 142 (R.I. 2010) (quoting *Parker v. Parker*, 103 R.I. 435, 238 A.2d 57, 60-61 (1968)). However, this standard “does not require that the evidence negate all reasonable doubt or that the evidence must be uncontroverted.” *Cahill v. Morrow*, 11 A.3d 82, 88 n.7 (R.I. 2011) (quoting 29 Am. Jur. 2d *Evidence* § 173 at 188–89 (2008)).

Moreover, it is well-settled that “[t]he task of determining the credibility of witnesses is peculiarly the function of the trial justice when sitting without a jury.” *DeSimone Electric, Inc. v. CMG, Inc.*, 901 A.2d 613, 621 (R.I. 2006) (quoting *Walter v. Baird*, 433 A.2d 963, 964 (R.I. 1981)). As such, 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 *Liberty Mutual Insurance Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). Therefore, a trial justice’s factual findings are “entitled to great weight and will not be overturned unless the factual finding[s] [are] clearly wrong or unless the trial court overlooked

or misconceived material evidence.” *Norton v. Courtemanche*, 798 A.2d 925, 932 (R.I. 2002) (quoting *Walsh v. Cappuccio*, 602 A.2d 927, 930 (R.I. 1992)).

In the instant matter, the Trial Judge expressly found the testimony of Officer Jepson to be credible. (Tr. at 12.) Based upon this testimony, the Trial Judge determined that Appellant proceeded through the stop sign without coming to a complete stop. *Id.* The Trial Judge also found that Officer Jepson was not engaged “in some other patrol activity then observed a traffic violation, sort of by happenstance. [H]e was parked where he was parked for the sole purpose of observing that intersection so that he could monitor whether motor[ists] came to a complete stop.” *Id.* at 11. Thus, the Trial Judge decided “to assign more weight to the officer’s testimony because it’s his job to do what he did that night.” *Id.* at 12.

Notwithstanding Appellant’s failure to appear, this Panel has reviewed the provided transcript and concludes that there were no legal errors and moreover, found no indication of any bias.

Therefore, this Panel is satisfied that the record contains competent evidence to support the Trial Judge’s decision. *See Link*, 633 A.2d at 1348. Accordingly, the Trial Judge’s decision was neither clearly erroneous nor an abuse of discretion. *See* § 31-41.1-8(f)(5)-(6).

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 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)

Administrative Magistrate Joseph A. Abbate

Associate Judge Edward C. Parker

DATE: _____