

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T21-0020
	:	21001523175
PARIS CENTEIO	:	

DECISION

PER CURIAM: Before this Panel on December 1, 2021—Associate Judge Almeida (Chair), Magistrate Kruse Weller, and Magistrate DiChiro, sitting—is Paris Centeio’s appeal from a decision of Magistrate Abbate (Trial Magistrate) of the Traffic Tribunal, sustaining the charged violations of G.L. 1956 § 31-14-2, “Speeding 11+ MPH in excess of posted speed limit – 1st offense[,]” G.L. 1956 § 31-15-11, “Laned Roadway Violations[,]” and § 31-15-16, “Use of Breakdown Lane for Travel[.]” Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

I

Facts and Travel

On June 25, 2021, Trooper Arnaldo J de Lacerda Dju (Trooper de Lacerda) of the Rhode Island State Police charged Paris Centeio (Appellant) with the aforementioned violations of the motor vehicle code. *See* Summons No. 21001523175. Appellant contested the charge, and the matter proceeded to trial on September 16, 2021.

At trial, Trooper de Lacerda testified that on the evening of June 25, 2021, at approximately 7:01 p.m., Trooper de Lacerda was traveling on Route 95 South near Atwells Avenue and noticed a 1997 Toyota Avalon (vehicle) with a Massachusetts license plate coming from Route 6 onto Route 95 South. (Tr. at 3:1-8.) Trooper de Lacerda recalled that the traffic was fairly heavy and

there were about five other vehicles ahead of the vehicle. (Tr. at 3:8-10.) Trooper de Lacerda explained:

“I observed the operator . . . drive over the curb from Route 6 onto 95 without using turn signal, going over the breakdown lane into the first lane of travel . . . then the operator went from the first lane to second lane and third lane without using turn signal.” *Id.* at 3:10-15.

Trooper de Lacerda explained that he activated the radar unit and observed the front radar speed of the vehicle as eighty (80) miles per hour in a fifty-five (55) mile per hour zone. *Id.* at 3:15-17, 4:9-14. While following the vehicle, Trooper de Lacerda observed the vehicle change lanes “from the high-speed lane into the first lane into the second lane again” and obtained a clock speed of eighty (80) miles per hour. *Id.* at 3:17-21. Trooper de Lacerda testified that the “radar unit was calibrated internally using tuning forks, and prior to [his] shift, after [his] shift, and found to be in good working condition[.]” *Id.* at 3:23-4:1. Trooper de Lacerda also testified that he had received training in the use of radar at the Training Academy in 2019. *Id.* at 4:1-2.

Trooper de Lacerda explained that on the night of the incident, Trooper de Lacerda conducted a stop of the vehicle on Route 95 South near Eddy Street. *Id.* at 3:21-22. At trial, Trooper de Lacerda indicated that Paris Centeio was the operator of the vehicle. *Id.* at 3:3-5. Trooper de Lacerda had issued Appellant a citation for driving seventy (70) miles per hour in a fifty-five (55) mile per hour zone. *Id.* at 4:4-14; *see also* Summons No. 21001523175.

During Appellant’s opportunity to cross-examine Trooper de Lacerda at trial, Appellant did not ask Trooper de Lacerda any questions but only made statements that the allegations against Appellant were false. *Id.* at 4:16-8. In Appellant’s direct testimony, Appellant stated “[t]he whole thing’s a false allegation.” *Id.* at 7:14. Appellant argued that he used turn signals and just missed the exit while heading to meet someone at restaurant in Massachusetts. *Id.* at 7:14-17. Appellant also stated that he has been working on speeding and “doin’ everything not to speed.” *Id.* at 7:24-

8:1. Appellant further contended that Officer de Lacerda considered Appellant's out-of-state license plates when deciding to conduct a traffic stop. *Id.* at 8:1-3.

The Trial Magistrate found Appellant guilty of the aforementioned violations by clear and convincing evidence. *Id.* at 10:3-9. Additionally, the Trial Magistrate also found Trooper de Lacerda credible. *Id.* at 9:13-15. The Trial Magistrate also noted that abruptly changing lanes without a using a turn-signal and traveling in the breakdown lane causes a substantial traffic safety hazard. *Id.* at 9:7-13. For sanctions, the Trial Magistrate imposed a statutory fine of \$245 for the speeding violation, \$85 for the lane roadway violation, \$85 for use of the breakdown lane, and court costs. *Id.* at 10:22-11:1. The Trial Magistrate also said that Appellant had a right to appeal the decision. *Id.* at 10:19-20. Appellant timely filed the instant appeal but did not appear before this Panel.¹

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;

¹ Records in the public portal indicate that the motorist may have been incarcerated during the time of the appeal hearing.

- “(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 Appellant’s appeal, Appellant only wrote the following on the Notice of Appeal form: “[t]he state tropper [*sic*] is lying I used my turn signals, I was not speeding I was lost not from this state[.]” *See* Notice of Appeal. Appellant did not appear or send a representative to the December 1, 2021 appeals hearing to present any additional arguments.

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, Trooper de Lacerda demonstrated that the moving radar unit was “tested within a reasonable time and by an appropriate method” because Trooper de Lacerda testified that the “radar unit was calibrated internally using tuning forks, and prior to [his] shift, after [his] shift, and found to be in good working condition[.]” *See id.*; Tr. at 3:23-4:1. As such, Trooper de Lacerda 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. Trooper de Lacerda also offered “testimony setting forth [Trooper de Lacerda’s] training and experience in the use of a radar unit” by testifying that he had received training in the use of radar at the Training Academy in 2019. *See id.*; Tr. at 4:1-2. Therefore, Trooper de Lacerda satisfied the second requirement of *Sprague*. *See Sprague*, 113 R.I. at 357, 322 A.2d at 39-40.

B

Laned Roadway and Breakdown Lane Violations

On Appeal, Appellant argues that he did use his turn signal and that Trooper de Lacerda lied. *See* Notice of Appeal. Rhode Island General Laws 1956 § 31-16-5 provides that “[n]o person shall so turn any vehicle without appropriate signal in the manner described in this chapter in the

event any other traffic may be affected by the movement.” Sec. 31-16-5. Section 31-15-11 provides, in pertinent part:

“Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent with them shall apply:

“(1) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.” Sec. 31-15-11.

Thus, to sustain a violation under § 31-15-11, the evidence on the record must demonstrate that (1) the roadway is divided into two or more lanes; (2) the vehicle did not operate as nearly as practical entirely within a single lane; and (3) the vehicle moved from the lane at a time that the move could not be made with safety. *Id.*

In this case, Trooper de Lacerda testified that he observed Appellant’s vehicle “drive over the curb from Route 6 onto 95 without using turn signal, going over the breakdown lane into the first lane of travel . . . then the operator went from the first lane to second lane and third lane without using turn signal.” *Id.* at 3:10-15.

Trooper de Lacerda’s testimony that Appellant changed between three lanes of traffic on Route 95 South clearly indicates that there were two or more lanes and satisfies the first requirement of § 31-15-11(1). Additionally, Officer de Lacerda’s testimony that the Appellant crossed into multiple lanes demonstrates that Appellant did not even attempt to operate within a single lane and satisfies the second requirement of § 31-15-11(1). Lastly, the record in this case illustrates that traffic was fairly heavy and that the Trial Magistrate found the situation was hazardous for Appellant to change lanes without using a turn signal and travel in the breakdown lane. *See* Tr. at 3:8-10, 9:7-13. This Panel also notes that the breakdown lane is meant for vehicles that are disabled or pulled over. As such, there was proper evidence to satisfy the third requirement

of § 31-15-11(1). As such, the Panel is satisfied that the Trial Magistrate’s decision sustaining the charged violation is supported by clear and convincing evidence.

C

Credibility

In Appellant’s Notice of Appeal, Appellant attacked the credibility of Trooper de Lacerda, stating “[t]he state trooper is lying[.]” *See* Notice of Appeal. However, the Trial Magistrate found Trooper de Lacerda credible. *See* Tr. at 9:13-15.

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 Trooper de Lacerda, 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). Based upon Trooper de Lacerda’s testimony and the evidence on the record, the Trial Magistrate’s decision to sustain the violations 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 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:

Associate Judge Lillian M. Almeida (Chair)

Magistrate Erika Kruse Weller

Magistrate Michael DiChiro

DATE: _____