

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF CRANSTON

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:
:

v.

C.A. No. T15-0020
15402500033

CARLOS MOLINA MARTINEZ

DECISION

PER CURIAM: Before this Panel on June 24, 2015—Administrative Magistrate DiSandro (Chair), Judge Parker, and Magistrate Abbate, sitting—is Carlos Molina Martinez’s (Appellant) appeal from a decision of Magistrate Noonan (Trial Magistrate) sustaining the charged violation of G.L. 1956 § 31-17-2, “Vehicle turning left or right.” The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On January 5, 2015, Officer Alex Travers of the Cranston Police Department charged Appellant with § 31-47-9, “Penalties,” § 31-17-2, “Vehicle turning left or right,” and § 31-16-2, “Manner of turning at intersection.” Section 31-47-9 was dismissed prior to trial. The Appellant contested the remaining charges, and the matter proceeded to trial on April 21, 2015.

At trial, Officer Travers testified that at approximately 7:04 p.m. on January 5, 2015, he was “dispatched to a motor vehicle officer-involved accident on Garfield Avenue in the area of the Garfield Parkade.” (Tr. at 4.) Officer Travers stated that when he arrived at the scene, Officer Brandon Scotti, who was involved in the accident, identified the Appellant as the operator of the other vehicle involved in the accident. Id. at 5. Officer Scotti explained to Officer Travers that as he was approaching the green light at the intersection, Appellant’s vehicle cut in front of him. Id. at 6. Officer Scotti told Officer Travers that “he applied his breaks as

quickly as possible and had no opportunity to turn, which caused his front end to strike [Appellant's] passenger side.” Id. Officer Scotti’s airbags were deployed, and his vehicle sustained disabling damage to the front end. Id. at 7. Officer Travers clarified that Officer Scotti’s vehicle was in the northbound travel lane, and the Appellant’s vehicle had spun to the northeast corner of the intersection and was on the curbing and grass area. Id. Officer Travers testified that both operators and Appellant’s passenger all stated that they did not have any injuries. Id. Officer Travers then took Appellant into custody for driving without a license, and issued Appellant summons for the aforementioned violations of the motor vehicle code. Id. Officer Travers added that he took photographs of the scene, and the Trial Magistrate entered the photos as State’s Exhibits 1, 2, and 3. Id. at 7-8.

On cross-examination, Officer Travers stated that the speed limit in the area is 25 miles an hour. Officer Travers testified that he is not qualified as an expert in automobile design; and could not opine, based on the extensive damages sustained by said vehicles, if speed was a factor in the accident. Id. at 9-10.

Subsequently, Appellant testified that on January 5, 2015 at approximately 7:00 p.m. he was driving on the eastbound lane on Garfield Street, and he tried to make a left-hand turn onto Carlsbad Street. Id. at 12. The Appellant explained that he stopped at the intersection, put on the blinker, and made the turn because he felt Officer Scotti’s vehicle was approximately 100 meters away. Id. at 13. The Appellant estimated Officer Scotti was traveling “very fast.” Id. at 14. The Appellant testified that he had a conversation with Officer Scotti at the scene of the accident, and they disagreed over whose fault it was. Id. at 15-16

Thereafter, Mr. Alvaro Barrientos testified that he was a passenger in Appellant’s vehicle on January 5, 2015. Id. at 17. Mr. Barrientos explained that when Appellant made the stop to

turn, he “saw another car that was coming and it was far away.” Id. He testified that “all of the sudden [he] felt the impact. And when [he] saw it, [they] were just next to a tree that was there.” Id. Mr. Barrientos stated that in his opinion, it was safe for Appellant to make the turn, and Appellant used the blinker when he turned. Id. at 17-18. Thereafter, Mr. Barrientos explained that he took pictures at the scene of the accident, and the pictures were entered as Defense exhibits 1, 2, and 3. Id. at 18-19.

Subsequently, Appellant’s counsel argued that the City did not meet its burden in this case. Id. at 19. Counsel for Appellant added that Officer Scotti’s speed was clearly a factor in the accident. Id.

After both parties were given an opportunity to present evidence, the Trial Magistrate issued a decision sustaining the failure to yield right of way charge pursuant to § 31-17-2. Id. at 20. The Trial Magistrate noted that the defense stated it was safe to make the left turn. Id. However, the Trial Magistrate found that “it was anything but safe to make the turn, because upon making the turn and entering the intersection there was an impact that resulted in an automobile accident, causing damage to both vehicles.” Id. at 21. The Trial Magistrate did not sustain the violation for manner of turning at an intersection, § 31-16-2. Id. The Trial Magistrate found there was ambiguity as to whether the street was a four or a two-way roadway. Id. at 21-22. Thus, the Trial Magistrate only sustained the “Vehicle turning left or right” violation. Aggrieved by the Trial Magistrate’s decision to sustain the charge, Appellant timely filed this appeal.

Standard of Review

Pursuant to G.L. 1956 § 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 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 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.” Link, 633 A.2d at 1348. Otherwise, it must affirm the hearing judge’s [or magistrate’s] conclusions on appeal. See Janes, 586 A.2d at 537.

Analysis

On appeal, Appellant contends that the Trial Magistrate’s decision was clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant avers that the Trial Magistrate relied on hearsay evidence to sustain the violation. Furthermore, Appellant maintains that the City did not meet its burden of proof because there is not clear and convincing evidence on record that Appellant committed the violation.

Section 31-17-2 reads in pertinent part, “The driver of a vehicle within an intersection intended to turn to the left or right shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close to it as to constitute an immediate hazard. . . .” G.L. 1956 § 31-17-2. In Link, our Supreme Court made clear that 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)). As the members of this Panel did not have an opportunity to view the live trial testimony of Officer Travers, Appellant, or Mr. Barrientos, it would be impermissible to second-guess the Trial Magistrate’s “impressions as he . . . observe[d] [the witnesses] [,] listened to [their] testimony [and] . . . determine[ed] . . . what to accept and what to disregard[,] . . . what . . . [to] believe[] and disbelieve[.]” Environmental Scientific Corp., 621 A.2d at 206.

At trial, the Trial Magistrate made specific findings of fact, and acknowledged the defense's arguments. See Tr. at 20. However, the Trial Magistrate stated that based on the pictures provided, he did not find it safe for Appellant to enter the intersection. Id. at 20-21. Moreover, there is nothing in the record to establish that the Trial Magistrate relied on hearsay evidence to sustain the violation. See id. “[The appellate court] [is] not privileged to assess the credibility of witnesses and may not substitute our judgment for that of the trial [magistrate] concerning the weight of the evidence on questions of fact.” Environmental Scientific Corp., 621 A.2d at 208 (quoting Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). In his decision, the Trial Magistrate credited the photographs provided, as well as the circumstances of the accident. See Tr. at 21. The Trial Magistrate was satisfied by clear and convincing evidence that the City met its burden of proof in the case. Accordingly, the Trial Magistrate found the Appellant guilty of violating § 31-17-2.

Confining our review of the record to its proper scope, this Panel is satisfied that the Trial Magistrate did not abuse his discretion, and his decision to sustain the charged violation is supported by legally competent evidence. See Environmental Scientific Corp., 621 A.2d at 209 (holding the appellate court “should give great deference to the [trial magistrate’s] findings and conclusions unless clearly wrong”).

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the Trial Magistrate's decision was supported by reliable, probative, and substantial evidence of record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

ENTERED:

Administrative Magistrate Domenic A. DiSandro, III
(Chair)

Judge Edward C. Parker

Magistrate Joseph A. Abbate

DATE: _____