

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF CRANSTON

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**C.A. No. T14-0036
14001510257
14001510258**

IN RE: RICHARD W. AUDETTE

DECISION

PER CURIAM: Before this Panel on July 23, 2014—Magistrate Noonan (Chair, presiding), Administrative Magistrate Cruise, and Magistrate DiSandro, sitting—is Richard Audette’s (Appellant) appeal from a default judgment entered by Magistrate Abbate, sustaining the charged violations of G.L. 1956 § 31-10-1, “No License on Person;” § 31-22-22(g), “No Seat Belt-Operator;” § 31-21-4, “Places where Parking or Stopping Prohibited;” § 31-15-12.1, “Entering Intersection;” and § 31-47-9, “Operating a Motor Vehicle without Evidence of Insurance.” The Appellant was represented by counsel before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On March 26, 2014, Corporal Gregory W. Cunningham of the Rhode Island State Police charged Appellant with the aforementioned violations of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to arraignment on May 14, 2014.

At arraignment, the Magistrate asked Appellant to state his name for the record. (Tr. at 1.) The Appellant replied “Richard W. Audette, Superior Beneficiary of the Clay B. Martell Remainder Trust.” Id. Thereafter, the Magistrate asked Appellant how he intended to plead to the aforementioned violations. (Tr. at 2.) Rather than plead, Appellant made a Motion to

Dismiss based on subject matter jurisdiction. Id. The Magistrate denied the motion and offered Appellant an opportunity to present arguments. (Tr. at 3.) The Appellant stated he could not proceed because he was only the beneficiary of the Trust. Id. The Magistrate warned Appellant that if he did not proceed, he would default on all matters. Id.

Thereafter, Appellant once again explained to the Magistrate that he could not proceed because he is not the trustee. Id. The Appellant reiterated that he is the Beneficiary of the Clay B. Martell Charitable Remainder Trust, and added that he was represented by the Attorney General's Office, Peter Kilmartin. (Tr. at 4.) The Magistrate asked Appellant if the Attorney General's Office was given notice for the hearing in which Appellant replied, "They have not, Judge." Id. The Magistrate then denied the motion, and told Appellant that he would default on "No license on person" if he did not proceed. Id. In response, Appellant stated that the "No license on person" charge is an estoppel by res judicata because it was dismissed by Judge Hastings. Id.

Subsequently, the Magistrate found Appellant defaulted and fined Appellant \$85.00 for "No License on Person;" \$40.00 for "No Seat Belt-Operator;" \$85.00 for "Places where Parking or Stopping Prohibited;" \$85.00 for "Entering Intersection;" and \$500.00 for "Operating a Motor Vehicle without Evidence of Insurance." In addition, the Magistrate suspended Appellant's license for three months. Aggrieved by the Magistrate's decision, the 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 [or magistrate’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 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.” Link, 633 A.2d at 1348 (citing Envtl. 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

Appellant's Arguments

On appeal, Appellant challenges the Magistrate's decision on the grounds that Appellant was substantially prejudiced and deprived of a trial. Specifically, Appellant argues that the Magistrate abused his discretion by depriving Appellant of his due process rights. The Appellant further argues that the Magistrate violated Rule 7 of the Traffic Tribunal Rules, explaining that the Rhode Island Traffic Tribunal (RITT) should have entered a plea of not guilty when he refused to offer a plea rather than enter a default judgment.

I

RITT Jurisdiction

The Appellant challenges RITT's jurisdictional authority over himself in the capacity of Superior Beneficiary of the Clay B. Martell Charitable Trust. Specifically, Appellant raises the issue of subject matter jurisdiction.

Section 8-8.2-2 states, in relevant part, that "[n]otwithstanding any inconsistent provision of law, . . . all violations of state statutes relating to motor vehicles, . . . and traffic offenses, except those traffic offenses committed in places within the exclusive jurisdiction of the United States, . . . shall be heard and determined by the traffic tribunal pursuant to the regulations promulgated by the chief magistrate of the traffic tribunal. See § 8-8.2-2. Specifically, jurisdiction of violations of § 31-22-22(g), "No Seat Belt-Operator;" § 31-21-4, "Places where Parking or Stopping Prohibited;" § 31-15-12.1, "Entering Intersection;" and § 31-47-9, "Operating a Motor Vehicle without Evidence of Insurance" are conferred upon the Traffic Tribunal. See § 8-18-3. Moreover, a violation of § 31-10-1, "No License on Person" remains

the exclusive jurisdiction of the Traffic Tribunal and shall not be within the jurisdiction of any municipal court. See § 8-18-10.

The Appellant identified himself at arraignment as the beneficiary of the Trust—not as himself—the motorist charged with the aforementioned violations. Because these violations fall within the statutory jurisdiction of the RITT and because Richard W. Audette, as the operator of the motor vehicle, was served with said violations in the capacity of the operator of the motor vehicle, a person, not a beneficiary of a Trust, the Traffic Tribunal possesses jurisdiction over this matter.

The Appellant offered voluminous records of evidence regarding his status as beneficiary of the Trust. However, “relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. See R.I. R. Evid. 401.¹ The evidence regarding the Appellant’s relationship to the Trust is irrelevant and does not contribute to the determination that the violations were committed by Richard W. Audette. See R.I. R. Evid. 402 (“All relevant evidence is admissible.... Evidence which is not relevant is not admissible”). Therefore, the evidence of his relationship to the Trust is not admissible. See id.

II

Default Judgment

In addition, Appellant argues that the Magistrate’s entry of default judgment was an abuse of discretion. Specifically, Appellant avers that the Magistrate violated Rule 7 of the Traffic Tribunal Rules, because Appellant contends that the Magistrate should have entered a plea of not guilty when Appellant refused to offer a plea.

¹ RITT follows the Rhode Island Rules of Evidence. Traffic Trib. R. P. 15.

Rule 6 of the Traffic Tribunal Rules of Procedure explains the process for arraignment. Traffic Trib. R. P. 6. “[A]ll defendants shall appear before a judge or magistrate of the court for arraignment on the date and time and at the place indicated on the summons.” Id. “If the defendant or the prosecution shall fail to appear, a dismissal or a judgment by default may enter pursuant to Rule 17.” Id. Rule 17 provides that a default judgment may be entered against the defendant upon his or her failure to appear at a trial and/or arraignment. Traffic Trib. R. P. 17. Although Rule 7 does provide that if a defendant refuses to plead or if the court refuses to accept a plea of guilty, the court shall enter a plea of not guilty, the defendant must first appear in order to plea. Traffic Trib. R. P. 7; see Traffic Trib. R. P. 17.

Here, Appellant appeared at his arraignment in his capacity as the beneficiary of the Trust—not as an individually licensed motorist, Richard W. Audette. The Appellant, as the motorist, refused to appear. See Tr. at 2-4 (each time Appellant is asked his name, he appears in his capacity as the beneficiary of the Trust). Because Appellant appeared in his capacity as beneficiary to the Trust, and not the licensed operator who was issued the summons before this Tribunal, Rule 7 does not apply. Additionally, the application of Rule 17 default judgment is appropriate as Appellant failed to appear at arraignment in the capacity of the motorist. See id. (showing Appellant knowingly chose not to meaningfully participate in the arraignment by refusing to appear).

III

Interests of Justice

Our Supreme Court has made clear that a defendant’s right to “present his defense at a trial . . . should be carefully protected.” Berick v. Curran, 179 A. 708, 711 (R.I. 1935). Under the Fourteenth Amendment, a tribunal must not be “biased or otherwise indisposed from rendering a

fair and impartial decision.” Davis v. Wood, 444 A.2d 190, 192 (R.I. 1982). Implicit in rendering a fair and impartial decision is the opportunity to be heard that conforms to the Due Process clause. It is well established that Due Process within municipal courts requires the opportunity to be heard “at a meaningful time and in a meaningful manner.” Millett v. Hoisting Engineers’ Licensing Div. of Dept. of Labor, 119 R.I. 285, 296, 377 A.2d 229, 235-36 (1977)); see also Gimmicks, Inc. v. Dettore, 612 A.2d 655, 660 (R.I. 1992) (court held due process requires that a [Municipal Court] allow a person to present evidence and testimony).

In the case at bar, this Panel is in the difficult position of deciding between a violation of our rules of procedure versus allowing the Appellant a fundamental right to a fair trial. While this Panel is mindful that the Appellant failed to appear at trial as required by our rules of procedure, our “rules are intended to provide for the just determination of every civil traffic violation.” Traffic Trib. R. P. 2.

This Panel acknowledges that Appellant appeared before this Panel represented by his Attorney thereby subjecting himself to the jurisdiction of this Traffic Tribunal. This Panel notes that the Appellant has submitted evidence to his defense related to the violations of § 31-10-1, “No License on Person;” and § 31-47-9, “Operating a Motor Vehicle without Evidence of Insurance.” Balancing the totality of circumstances in this case, this Panel, in the interests of justice dismisses both said violations.

Conclusion

After a review of the record and the oral arguments presented to this Court, this Panel finds that Magistrate did not abuse his discretion or make any errors of law when he sustained the violations of § 31-22-22(g), “No Seat Belt-Operator;” § 31-21-4, “Places where Parking or Stopping Prohibited;” § 31-15-12.1, “Entering Intersection.” Therefore, this Panel denies the

Appellant's appeal as to the aforementioned violation. However, because Appellant provided evidence related to the violations of § 31-10-1, "No License on Person;" and § 31-47-9, "Operating a Motor Vehicle without Evidence of Insurance," the Panel grants Appellant's appeal in respect to those charges. Accordingly, this Panel denies the Appellant's appeal in part and grants the Appellant's appeal in part.

ENTERED:

Magistrate William T. Noonan (Chair)

Magistrate Domenic A. DiSandro III

DATE: _____

Note: Administrative Magistrate R. David Cruise participated in the decision but resigned prior to its publication.