

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF EAST PROVIDENCE

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:
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v.

**C.A. No. M13-0007
12404500613**

JOANNE QUINN

DECISION

PER CURIAM: Before this Panel on September 11, 2013—Magistrate Goulart (Chair, presiding), Judge Parker, and, Magistrate Noonan, sitting—is Joanne Quinn’s (Appellant) appeal from a decision of Judge Furtado of the East Providence Municipal Court (trial judge), sustaining the charged violation of G.L. § 31-22-22 (g) (Safety belt use). Appellant appeared before this Panel pro se. Jurisdiction is pursuant to R.I.G.L. 1956 § 31-41.1-8.

Facts and Travel

On January 22, 2013, a captain of the East Providence Police Department (Captain) charged Appellant with the aforementioned seatbelt violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on May 16, 2013.

At trial, the Captain testified that he first observed the Appellant operating her vehicle at a stop sign as the Appellant was coming off of Broadway and preparing to make a right-hand turn onto Waterman Avenue. (Tr. at 3.) The Captain indicated he was at the stop sign on Waterman Avenue taking a left-hand turn onto Taunton Avenue. Id. Upon seeing the Appellant, the Captain testified that he immediately observed “[h]er window was down, both straps were hanging down directly to her left, and she was facing me. As she pulled out, they were still hanging to the left.” Id. The Captain added, “it was a clear unobstructed view with the window

down.” (Tr. at 4.) Thereafter, the Captain conducted a traffic stop and cited the Appellant for the aforementioned seatbelt violation. (Tr. at 10.)

At the trial, the Appellant contended that the Captain had not described his vehicle’s position in relation to the Appellant correctly. (Tr. at 4.) Appellant also questioned the veracity of the Captain’s testimony, testifying, “I did have it on. I didn’t put it on, as he pulled me over, because he did not come around the corner.” (Tr. at 7.) The Appellant explained that she had not put her seatbelt on as the Captain approached, but was actually adjusting her scarf. Id. The Appellant also exclaimed that she believed that the Captain’s profession would lead the trial judge to favor the Captain’s testimony. (Tr. at 11.) The trial judge responded, “it doesn’t matter. You know, I just follow - - I just follow the evidence.” Id.

After both parties finished presenting evidence, the trial judge issued his decision sustaining the seatbelt violation. (Tr. at 17-18.) The trial judge instructed the Appellant that the burden of proof of the police department was to prove by clear and convincing evidence the elements of the charge. (Tr. at 16.)

Notably, the trial judge highlighted the Captain’s testimony regarding his clear and unobstructed view. (Tr. at 17.) The trial judge also noted that the Captain had testified that he saw seatbelt straps of the Appellant’s vehicle hanging down and that the Captain saw the Appellant put the straps on. Id. In sustaining the charge, the trial judge found that based on the Captain’s credible testimony, the East Providence Police Department had proven by clear and convincing evidence the elements of the charge against the Appellant. Id. Appellant timely filed this appeal.

Standard of Review

Pursuant to G.L. 1956 § 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 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 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 conclusions on appeal. See Janes, 586 A.2d at 537.

Analysis

On appeal, Appellant argues that the trial judge’s decision was clearly erroneous in light of the lack of reliable, substantial and probative evidence on the whole record. Furthermore, Appellant asserts the trial judge abused his discretion by choosing to credit the Captain’s trial testimony—that he observed the Appellant was not wearing his seatbelt—over that of the Appellant.

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 the Captain or Appellant, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the Captain and Appellant] [,] 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.

After listening to the testimony, the trial judge determined that the Captain’s testimony was sufficient to sustain the charged violation. Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge did not abuse his discretion, and his decision to sustain the charged violation is supported by legally competent evidence. The members of this

Panel conclude that the trial judge's decision to sustain the charged violations—based on the Captain's testimony—is not clearly erroneous in light of the lack of reliable, substantial and probative evidence on the whole record.

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 is not clearly erroneous in light of the lack of reliable, substantial and probative evidence on the whole record or tainted by abuse of discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

ENTERED:

Magistrate Alan R. Goulart (Chair)

Judge Edward C. Parker

Magistrate William T. Noonan

DATE: _____