

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF PAWTUCKET

v.

MATTHEW SABA

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C.A. No. M11-0026

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on February 29, 2012—Judge Almeida (Chair, presiding), Magistrate Goulart, and Magistrate Noonan, sitting—is Matthew Saba’s (Appellant) appeal from a decision of Judge McBurney (trial judge), sustaining the charged violation of G.L. 1956 § 31-20-9, “Obedience to stop signs.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On August 16, 2011, Sergeant Mason (Sergeant Mason) of the Pawtucket Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on November 4, 2011.

Shortly before the Appellant was stopped, Sergeant Mason was observing traffic on Prospect Street in Pawtucket. (Tr. at 1.) Sergeant Mason was observing traffic to look for motorists that were violating the motor vehicle code. While on Prospect Street he observed the Appellant—who was traveling west on Pond Street—approach a stop sign at the intersection of Prospect Street. Id. Sergeant Mason saw—through his rearview mirror—the Appellant slow down at the stop sign and proceed north on Prospect Street. Appellant did not come to a

complete stop. Sergeant Mason testified that he had a clear and unobstructed view of the intersection. (Tr. at 1.)

After witnessing the Appellant fail to come to complete stop at the intersection, Sergeant Mason conducted a traffic stop. At the conclusion of the stop, Sergeant Mason cited the Appellant for failing to come to a complete stop at the intersection of Prospect and Pond Streets.

At the trial, Appellant stated that Sergeant Mason was south of the intersection, not north as Sergeant Mason had previously testified. (Tr. at 2.) Appellant also testified that there was no stop sign at the intersection, rather there was a yield sign. Id.

After hearing both sides, the trial judge sustained the charged violation against Appellant. (Tr. at 3.) The trial judge found Sergeant Mason to be a credible witness. Id. The trial judge also determined that Appellant had failed to come to a complete stop at the intersection as required by law. Thereafter, the trial judge imposed an eighty-five (85) dollar fine as the Appellant's sentence. 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 [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 judge abused his discretion by crediting the testimony of Sergeant Mason and discrediting the Appellant's testimony. Furthermore, the Appellant argues that Sergeant Mason's testimony about his location on Prospect Street was not accurate. Finally, Appellant argues that the trial judge did not provide Appellant with a fair hearing because the trial judge interrupted the Appellant several times.

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 Sergeant Mason or Appellant, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [Sergeant Mason 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 Sergeant Mason’s testimony was sufficient to sustain the charged violation. In sustaining the charge, the trial judge found Sergeant Mason to be a credible witness; thus, the trial judge accepted Sergeant Mason’s testimony regarding his positioning Prospect Street as truthful. 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.

Finally, Appellant’s argument that he was not afforded a full and fair hearing is without merit. Based on this Panel’s review of the record, this Panel concludes that the Appellant’s trial was conducted in accordance with our rules of procedure. See Traffic Trib. R. P. 15; see generally 16D C.J.S. Constitutional Law § 1787 (due process is satisfied when a trial is conducted pursuant to a court’s rules of procedure). The trial judge also afforded the Appellant ample opportunity to cross-examine Sergeant Mason and present his case-in-chief. The trial judge even offered the Appellant additional time to question Sergeant Mason after the Appellant told the trial judge he had finished his questioning. (Tr. at 2.)

### 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 not an abuse of discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.