

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF PAWTUCKET

v.

MATTHEW LAMBERT

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C.A. No. M14-0029
14408504710

DECISION

PER CURIAM: Before this Panel on June 10, 2015—Magistrate Noonan (Chair), Chief Magistrate Guglietta, and Magistrate Abbate, sitting—is Matthew Lambert’s (Appellant) appeal from a decision of Judge Nusselbush (Trial Judge) of Pawtucket Municipal Court, sustaining the charged violation of G.L. 1956 § 31-28-9, “Owners liability for parking tickets.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On July 18, 2013, an Officer of the Pawtucket Police Department charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on October 17, 2014.

At trial, the Officer testified that on July 18, 2013 at approximately 9:00 a.m. he was working the street sweeping detail. (Tr. at 1-2.) The Officer explained that the roads have designated street cleaning days and times when cars are not allowed to park on the street in order for street sweeping to take place. Id. at 2. The Officer added that the times parking is prohibited are clearly marked with signs on the telephone poles. Id. The Officer added that when he works street sweeping detail, he follows behind the street sweeper on the designated cleaning day, and

issues a ticket to any vehicle that is parked on the roadway. Id. The Officer testified that he issued a parking ticket to the Appellant on the date and time in question. Id.

Thereafter, Appellant made a motion to dismiss the charge arguing that the City of Pawtucket does not have jurisdiction over him because he is a resident of the City of Providence. Id. at 3. The Trial Judge denied Appellant's motion and explained that regardless of a person's residence, everyone must obey the traffic signs in the jurisdiction. Id.

Subsequently, the Appellant stated that he never received the ticket. Id. at 4. The prosecutor for Pawtucket explained to the Court that on July 19, 2013, the city sent the first letter to Appellant's Providence address, informing him of the parking violation. Id. at 6. After the city received no response, the police department looked into the matter and found an additional address for Appellant in Waquoit, Massachusetts. Id. The city re-sent the letter on February 24, 2014 to the Massachusetts address. Id. The Appellant clarified that he receives mail at the Providence address, and he does not know why he did not receive the letter informing him of the parking ticket. Id. at 7.

After hearing testimony from the Officer and the Appellant, the Trial Judge found the Officer's testimony, that he was working a traffic detail when he found a car with Appellant's registration parked illegally, to be credible. Id. The Officer wrote Appellant a ticket, and placed it on the windshield. Id. The Trial Judge added that she does not have an explanation for why Appellant did not receive the letter informing him of the ticket, but noted that he received the letter notifying him of the suspension on his license. Id. The Trial Judge found that the parking ticket was sent to the correct address, sustained the violation and approved the fine of \$75.00. Id. Aggrieved by the Trial Judge's decision, Appellant timely filed the instant 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 municipal court. 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 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

On appeal, Appellant contends that the Trial Judge’s decision was in violation of constitutional or statutory provisions, affected by error of law, made upon unlawful procedure, and arbitrary or capricious. Specifically, Appellant asserts that Pawtucket Municipal Court did not have jurisdiction over him because he is a resident of Providence. The Appellant also contends that the Trial Judge erred by failing to follow the Federal Rules of Civil Procedure; improperly treating the case as a criminal matter by arraigning Appellant; and failing to give Appellant sufficient time to prepare for trial. Moreover, Appellant argues the Pawtucket Police Department failed to fully disclose all documents related to the case, and that they violated the double jeopardy clause of the United States Constitution by charging Appellant twice for a single offense. The Appellant also argues that there is no clear and convincing evidence that Appellant committed the violation, and that the Trial Judge was not an impartial decision maker.

Jurisdiction

A threshold issue Appellant raises in this matter is jurisdiction. The Appellant contends that Pawtucket Municipal Court does not have jurisdiction over him, and that the Pawtucket ordinance should not apply to him because he is a resident of Providence.

Rhode Island General Law provides in pertinent part that “[t]own and city councils may impose penalties for the violation of ordinances and regulations. . . . G. L. 1956 § 45-6-2. This state statute permits Pawtucket to impose penalties for parking violations. See id. Moreover, Municipal Courts have jurisdiction over parking offenses pursuant to § 8-8.2-2, and this Court has appellate jurisdiction pursuant to § 31-41.1-8. Thus, regardless of Appellant’s residence

status, Pawtucket Police officers had the authority to issue a parking ticket to the Appellant for a parking violation in Pawtucket, and the case was properly heard in Pawtucket Municipal Court. See id. Therefore, jurisdiction is not at issue in this case.

Procedure

The Appellant further contends that the Trial Judge's decision was made upon unlawful procedure. The Appellant asserts the Trial Judge erred by failing to follow the Federal Rules of Civil Procedure; improperly treating the case as a criminal matter; and failing to give Appellant sufficient time to prepare for trial. The Appellant also contends the Pawtucket Police Department failed to fully disclose all documents related to the case, and violated the double jeopardy clause of the United States Constitution by charging Appellant twice for the parking violation.

The Rhode Island Traffic Tribunal and Municipal Courts follow the Traffic Tribunal Rules of Procedure in adjudicating traffic violations. See G.L. 1956 § 8-8.2-1; see generally Traffic Trib. R. P. The Rules of Procedure require motorists who have not administratively paid the summons “[to] appear before a judicial officer (defined as a judge or a magistrate of the court) for the first appearance on the date and time and at the place indicated on the summons.” Traffic Trib. R. P. 6(a). This rule explains the motorist is before the court for a civil violation. Id.

Here, the Federal Rules of Civil Procedure are inapplicable because the case was properly before the Pawtucket Municipal Court. See § 8-8.2-2; see also Traffic. Trib. R. P. Thus, the Trial Judge properly followed the Traffic Tribunal Rules of Procedure. The Appellant was “arraigned” pursuant to Rule 6 because he failed to administratively pay the parking violation. Therefore, Appellant's case was properly treated as a civil violation under the Traffic Tribunal

Rules of Procedure. See Traffic Trib. R. P. 6(a). Moreover, since Appellant was charged with a civil violation, Appellant's double jeopardy argument is inapplicable to this case. See State v. One 1990 Chevrolet Corvette VIN: 1G1YY3388L5111488, 695 A.2d 502, 505-06 (R.I. 1997) (holding double jeopardy applies in criminal proceedings and is inapplicable in a civil contempt proceeding); see also Ventures Management Co., Inc. v. Geruso, 434 A.2d 252 (R.I.1981).

The Rules of Procedure also explain the process for discovery, and motioning for a continuance. See Traffic Trib. R. P. 11. In this case, Appellant never filed a motion for discovery or asked the Trial Judge for additional time to prepare his defense. Thus, the Trial Judge did not err by holding Appellant's trial on October 17, 2014 without additional discovery.

The Violation

Lastly, Appellant maintains that there was no clear and convincing evidence that he committed the violation, and that the Trial Judge was not an impartial decision maker.

Rhode Island General Law states that "[w]henver any motor vehicle [is] parked illegally, the owner of the motor vehicle shall be . . . liable . . . for the payment of any fines imposed. . . . Any . . . municipal court citation for a nonmoving violation shall be deemed admitted and defaulted after two (2) notices unanswered by the owner." Sec. 31-28-9. Here, the Trial Judge considered the Officer and Appellant's testimony. The Trial Judge determined that the Officer's testimony, that he issued a parking ticket and placed it on Appellant's car on July 18, 2013, was not only credible, but was also sufficient to sustain the charged violation. See Tr. at 2; see also § 31-28-9. "[The appellate court] [is] not privileged to assess the credibility of witnesses and may not substitute our judgment for that of the trial [judge] 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 her decision, the Trial

Judge credited the Officer's testimony, and found Appellant illegally parked during street cleaning on July 18, 2013. Thus, the Trial Judge sustained the violation.

Confining our review of the record to its proper scope, this Panel is satisfied that the Trial Judge did not abuse her discretion, and her decision to sustain the charged violation is supported by legally competent evidence. See Environmental Scientific Corp., 621 A.2d at 209 (The [appellate court] should give great deference to the [trial judge'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 Judge's decision was supported by the 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 is sustained.

ENTERED:

Magistrate William T. Noonan (Chair)

Chief Magistrate William R. Guglietta

Magistrate Joseph A. Abbate

DATE: _____