

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF PROVIDENCE

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:
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:
:

v.

**C.A. No. M14-0010
07409116539**

BLAKE BARRIE

DECISION

PER CURIAM: Before this Panel on July 30, 2014—Judge Almeida (Chair, presiding), Chief Magistrate Guglietta, and Magistrate Goulart, sitting—is Blake Barrie’s (Appellant) appeal from a decision of Judge Giannini of the Providence Municipal Court (Trial Judge), sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On March 7, 2014, Appellant was issued a citation for the aforementioned violation on North Main Street in Providence. A Providence police officer clocked Appellant’s speed at thirty five (35) miles per hour in a twenty five (25) mile per hour zone. A trial was held on April 30, 2014.

At trial, Appellant stated that there was a pre-trial conference between a prosecutor for the City of Providence, the police officer who cited the violation, and Appellant. (Barrie App. Form paragraph 2). The Appellant alleged to the Trial Judge that he was told by the prosecutor and officer that if he were to be found guilty at trial, his license would be suspended under the “Colin Foote Act.” Id. Appellant further explained to the Trial Judge that the prosecutor offered to waive his court costs, and that Appellant’s license would not be suspended if he pled guilty. Id.

The Appellant asked for clarification from the Trial Judge about the Colin Foote Act, and how it could be applied to his present case. See Tr. at 1. The Trial Judge informed the Appellant of the possibility of having his license suspended, if Appellant proceeded to trial. Id. Appellant asked a final question to the Trial Judge, “Okay, so if I were to request a trial and I was found guilty I could possibly face suspension of license?” Id. After an affirmative response from the Trial Judge, Appellant accepted the guilty plea, and he paid the ninety-five dollar fee. Id.

Standard of Review

Pursuant to G.L. 1956 § 8-18-9, “[a]ny person desiring to appeal from an adverse decision of a municipal court . . . may seek review thereof pursuant to the procedures set forth in § 31-41.1-8.” 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

I

Voluntary Entry of a Guilty Plea

Appellant argues an error of law was made by the Trial Judge, which caused him to make the guilty plea. See Tr. at 1. Appellant contends that the error of law occurred when the Trial Judge informed Appellant that it was imminent that his license would be suspended if Appellant proceeded to trial with the charge. Id.

It is well-settled that a guilty plea must be entered knowingly, intelligently, and voluntarily. See North Carolina v. Alford, 400 U.S. 25, 31 (1970) (stating that “the standard was and remains whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant”); see also Flint v. Sharkey, 107 R.I. 530, 538 (stating a “guilty plea was willingly made in the interest of obtaining the most favorable disposition A plea entered under such circumstances will not be held to be invalid when it is motivated by the defendant’s desire to accept the certainty or probability of a lesser penalty rather than face a wider range of possibilities”) (citation omitted). In the present case, Appellant did

knowingly, intelligently, and voluntarily enter a plea of guilty. See Tr. at 1; Alford, 400 U.S. at 32.

Here, the transcript evidences that Appellant was not informed of the imminent suspension if the charge proceeded to trial. Rather, the transcript illustrates that the Trial Judge informed Appellant of the possibility of a suspended license at trial. Before Appellant entered his guilty plea, he asked for clarification from the Trial Judge, “. . . so if I were to request a trial and I was found guilty[,] I could *possibly* face suspension of license?” Id. (Emphasis added.) After the Trial Judge answered “yes” to Appellant’s question, Appellant accepted the information and pled guilty.¹ Id.

Appellant’s argument on appeal does not demonstrate that the guilty plea was without knowledge, intelligence, and voluntariness. Id. The record indicates that after the Trial Judge informed Appellant of a potential punishment at trial, Appellant accepted the ninety-five dollar fine with the waived court fees. See State v. Price 68 A.3d 440, 448 (R.I. 2013) (finding that defendant’s constitutional rights were not violated when he was fully apprised of the charges against him and decided to enter a plea). There is no evidence of record which suggests that Appellant’s plea was involuntary or coerced. See Tr. at 1. This Panel finds that Appellant entered a guilty plea after sufficient information was provided to him in order for Appellant to make a knowing, intelligent, and voluntary decision. Accordingly, the municipal court Judge’s decision was not affected by error of law or in violation of constitutional provisions.

¹It is important to note that a trial judge has the authority to suspend a license under various statutes. See §§ 31-27-12.3 (c) (3); 31-11-5; 31-41-1.6.

II

Improper Appeal

Lastly, with respect to the appeal of the guilty plea, the Panel finds that the appeal of the guilty plea is improperly before the Tribunal. See State v. Feng, 421 A.2d 1258, 1266, n.10 (R.I. 1980) (holding “a defendant pleading guilty or nolo contendere waives . . . the right to appeal a conviction”). Appellant’s guilty plea signifies the waiver of the right to appeal the violation. See id.; Tr. at 1. After entering a plea of guilty, a defendant may motion to vacate his plea before the Trial Judge; however, the motion must be made prior to the imposition of the sentence. State v. Burke, 876 A.2d 1109, 1115 (R.I. 2005) (opining that a defendant cannot motion to vacate after being sentenced). In the matter within, Appellant did not motion to vacate his guilty plea before the sentence was levied. Thus, at this stage, Appellant would need to file a motion for relief from the judgment. See Traffic Trib. R. P. 20. The Traffic Tribunal Rules of Procedure allow the court to relieve a party from a judgment or order when the party can show:

- “(a) mistake, inadvertence, surprise, or excusable neglect;
- “(b) newly discovered evidence;
- “(c) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or misconduct of an adverse party;
- “(d) the judgment or order is void;
- “(e) the judgment or order has been satisfied, released, or discharged, or it is no longer equitable that the judgment or order should have prospective application; or
- “(f) any other reason justifying relief from the operation of the judgment, or order, including that relief is warranted in the interests of justice.” Id.²

²The Rhode Island Traffic Tribunal Rules of Procedure have been updated as of June 8, 2015. As such, Rule 20(c) now read “Fraud, misrepresentation, or misconduct of an adverse party.” Traffic Trib. R. P. 20.

Moreover, the “motion shall be made within a reasonable time, and not more than one year after the judgment or order was entered.” Id.³ This motion is made with the trial court, and thus, this Panel would not have jurisdiction over the motion. See id.

This Panel has determined that the appeal of the guilty plea is improperly before it and Appellant did knowingly, intelligently, and voluntarily enter a plea of guilty. See Tr. at 1; Alford, 400 U.S. at 32. The appeal therefrom is thus not properly before this Panel.

³ The updated Traffic Tribunal Rules of Procedure now reads “[t]he motion shall be made within a reasonable time, and for reasons (a), (b), and (c) not more than one (1) year after the judgment or order was entered.” Traffic Trib. R. P. 20.

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 acceptance of Appellant's guilty plea was not an error of law and not in violation of constitutional provisions. Substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is dismissed, and the charged violation is sustained.

ENTERED:

Judge Lillian M. Almeida (Chair)

Chief Magistrate William R. Guglietta

Magistrate Alan R. Goulart

DATE: _____