

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. M17-0018
16409152122**

EMANUEL JOIA

DECISION

PER CURIAM: Before this Panel on September 27, 2017— Magistrate Kruse Weller (Chair), Magistrate Noonan, and Chief Magistrate Guglietta, sitting—is Emanuel Joia’s (Appellant) appeal from a decision of Judge Daniel P. McKiernan (Trial Judge) of the Providence Municipal Court, denying Appellant’s Motion to Vacate default judgment entered for the charged violation of G.L. 1956 § 31-13-4, “Obedience to devices.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On March 30, 2017, a Providence Police Officer issued Appellant a citation for the abovementioned violation. *See* Summons No. 16409152122. The Appellant appeared before the Trial Judge on May, 2, 2017 for arraignment. (Tr. I Arraignment, May 5, 2017 at 1.) At the arraignment, the Trial Judge instructed that if Appellant provided the court proof of completing eight hours of community service before trial, on June 12, 2017, then the Trial Judge would dismiss the violation. *Id.* The Appellant accepted the Trial Judge’s offer and indicated that he intended to complete the community service. *Id.* at 2.

On June 14, 2017, Appellant failed to appear for trial. (Tr. II Trial, June 14, 2017 at 1.) The Trial Judge entered a default judgment and imposed an eighty-six dollar fine. *Id.* Thereafter, Appellant filed a Motion to Vacate the default judgement. *Id.*

On June 16, 2017, the Trial Judge heard Appellant’s Motion. (Tr. III Motion to Vacate Hearing, June 16, 2017 at 1.) The Appellant explained that he “did do the community service, [he] came [to court], and provided [] [the court] proof of completion of the community service.” *Id.* He continued, stating that “when [he] came in, [the clerk] refused to take it. [The clerk] said [he] had to go in front of the judge.” *Id.* The Trial Judge indicated to Appellant that he had never heard of a Municipal Court clerk refusing to take a letter. *Id.* at 2. The Trial Judge went on to state that Appellant failed to take any steps to prove that he had attempted to submit the letter and that the attempt was refuted. *Id.* at 3.

After a lengthy exchange between the Trial Judge and Appellant, the Trial Judge found that Appellant did not submit the necessary documentation to prove that he had completed the community service before trial. *Id.* at 6. The Trial Judge also indicated that despite Appellant’s assertions, he failed to appear for trial; therefore, the default judgment was warranted. *Id.* For those reasons, the Trial Judge denied Appellant’s Motion to Vacate. *Id.*

The Appellant subsequently filed a timely appeal of the Trial Judge’s decision. Forthwith is this Panel’s decision.

II

Standard of Review

Pursuant to § 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 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 Mut. 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.” *Id.* (citing *Envtl. Sci. 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.” *Id.* Otherwise, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

On appeal, Appellant argues that the Trial Judge's decision was "clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Sec. 31-41.1-8(f)(5). Specifically, Appellant contends that the Trial Judge erred by rejecting Appellant's assertion that the Providence Municipal Court clerk refused to accept proof of his community service completion.

A

Weight of the Evidence

It is well-established 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 *Janes*, 586 A.2d at 537). An appeals panel cannot review witness credibility as a trial judge may, since a trial judge "has had an opportunity to appraise witness demeanor and to take into account other realities that cannot be grasped from a reading of a cold record." *A. Salvati Masonry Inc. v. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017) (quoting *State v. Van Dongen*, 132 A.3d 1070, 1076 (R.I. 2016)). As this Panel did not observe live testimony, this Panel can neither assess the demeanor of a testifying witness, nor can it disturb a trial judge's findings of credibility. *A. Salvati Masonry Inc.*, 151 A.3d at 749 (quoting *Van Dongen*, 132 A.3d at 1076); *Link*, 633 A.2d at 1348 (citing *Janes*, 586 A.2d at 537). Therefore, this Panel will not question the Trial Judge's assessment of the witness's veracity during trial.

Based on a review of the record, this Panel finds that the Trial Judge's decision is supported by legally competent evidence. *Link*, 633 A.2d at 1348. The record reveals that the

Trial Judge heard and considered Appellant’s argument in support of his Motion to Vacate. (Tr. III at 2-3.) It is clear that the Trial Judge discredited Appellant’s version of events, even stating to Appellant “[i]f I believe your story, which I don’t frankly” *Id.* at 4. As 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,” it cannot substitute its judgment for that of the Trial Judge regarding Appellant’s credibility. *Link*, 633 A.2d at 1348 (citing *Janes*, 586 A.2d at 537). Accordingly, this Panel concludes that the Trial Judge’s decision was not “[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record.” *See* § 31-41.1-8(f)(5).

IV

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 clearly erroneous in view of the reliable, probative, or affected by error of law. The substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.

ENTERED:

Magistrate Erika Kruse Weller (Chair)

Magistrate William T. Noonan

DATE: _____

Note: Chief Magistrate William R. Guglietta participated in this Decision but was no longer a member of this Court at the time this Decision was issued.