

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS  
PROVIDENCE, Sc.  
SIXTH DIVISION

DISTRICT COURT

**Earth K. Wolo** :  
 :  
 :  
 v. : **A.A. No. 2011 – 0044**  
 : **(C.A. No. T11-0012)**  
 : **(10-001-1528919)**  
 :  
 :  
**State of Rhode Island** :

**ORDER**

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings & Recommendations of the Magistrate.

After a de novo review of the record and the memoranda of counsel, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto.

It is, therefore, ORDERED, ADJUDGED AND DECREED, that the Findings & Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the decision of the appellate panel of the Traffic Tribunal is AFFIRMED.

Entered as an Order of this Court at Providence on this 22<sup>nd</sup> day of November, 2011.

By Order:

\_\_\_\_\_/s/\_\_\_\_\_  
Clerk

Enter:

\_\_\_\_\_/s/\_\_\_\_\_  
Jeanne E. LaFazia  
Chief Judge

**STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS  
PROVIDENCE, Sc. DISTRICT COURT  
SIXTH DIVISION**

<b>Earth K. Wolo</b>	:	
	:	
	:	<b>A.A. No. 2011 – 0044</b>
v.	:	<b>(C.A. No. T11-0012)</b>
	:	<b>(10-001-1528919)</b>
	:	
<b>State of Rhode Island</b>	:	

**FINDINGS & RECOMMENDATIONS**

**Ippolito, M.** In this case Mr. Earth K. Wolo appeals from a Rhode Island Traffic Tribunal (RITT) appellate panel decision affirming a trial magistrate’s verdict adjudicating him guilty of driving without insurance — formally, “Penalties – Verification of proof of financial security,” in violation of Gen. Laws 1956 § 31-47-9. Jurisdiction for the instant appeal is vested in the District Court by Gen. Laws 1956 § 31-41.1-9 and the applicable standard of review is found in subsection 31-41.1-9(d). This matter has been referred to me for the making of findings and recommendations pursuant to Gen. Laws 1956 § 8-8-8.1. And, after a close examination of the trial magistrate’s

decision — and the opinion of the panel affirming it — I find that the trial magistrate did not act illegally or otherwise exceed his authority. As a result, I believe the decision of the panel affirming his decision is also correct and should be affirmed. I so recommend.

### **I. FACTS & TRAVEL OF THE CASE**

The facts of the incident in which Mr. Wolo was cited for an insurance violation are sufficiently stated in the decision of the panel. The incident and its aftermath were described as follows:

On October 25, 2010, Trooper Corsin of the Rhode Island State Police (Trooper Corsin), while on patrol near Schooner Drive in South Kingstown, Rhode Island initiated a traffic stop of Appellant's vehicle after witnessing him to be operating without front plates displayed.<sup>1</sup> (Tr. at 2.) When asked by Trooper Corsin, Appellant failed to produce any proof of insurance. He was given a citation for operating without insurance. At trial, the Appellant informed the trial magistrate that he had “just purchased the vehicle() and was going to go and register and insure it” when he got pulled over. (Tr. at 3.) The trial magistrate sustained the charge and levied the appropriate penalties.

Decision of Panel, April 20, 2011, at 1 (Footnote omitted).<sup>1</sup> Thus, Mr. Wolo was cited by Trooper Corsin for two violations — (1) “No insurance and (2) “Visibility of plates.” At trial before Magistrate Alan Goulart, Mr. Wolo

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<sup>1</sup> Footnote 1 indicated that Mr. Wolo was also charged with violating Gen. Laws 1956 § 31-3-12 (Visibility of plates) and that the charge was later dropped.

admitted that he was driving without a license. He was fined \$500 on the insurance charge and his license was suspended for six (6) months. Trial Transcript, at 3.

Aggrieved by this decision, the appellant filed a timely appeal and sought review by the RITT appeals panel. On March 16, 2011, the appeal was heard by an appellate panel comprised of: Magistrate Domenic DiSandro (Chair), Judge Lillian Almeida, and Judge Edward Parker. Before the appeals panel appellant asserted no errors of law but simply asked for the mercy of the panel, claiming that he had learned his lesson. In a decision dated April 20, 2011, the appeals panel affirmed the decision of the trial magistrate.

On April 29, 2011, Mr. Wolo filed the instant pro-se complaint for judicial review in the Sixth Division District Court pursuant to Gen. Laws 1956 § 31-41.1-9.

## **II. STANDARD OF REVIEW**

The standard of review which this Court must employ is enumerated in Gen. Laws 1956 § 31-41.1-9(d), which provides as follows:

(d) Standard of review. The judge of the district court shall not substitute his or her judgment for that of the appeals panel as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the appeals panel, or 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 appeals panel's findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the appeals panel;
- (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.

This standard is akin to the standard of review found in Gen. Laws 1956 § 42-35-15(g), the State Administrative Procedures Act (APA).

Under the APA standard, the District Court “\* \* \* may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are ‘clearly erroneous.’”<sup>2</sup> Thus, the Court will not substitute its judgment for that of the panel as to the weight of the evidence on questions of fact.<sup>3</sup> Stated differently, the findings of the panel will be upheld even though a reasonable mind might have reached a contrary result.<sup>4</sup>

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<sup>2</sup> Guarino v. Department of Social Welfare, 122 R.I. 583, 584, 410 A.2d 425 (1980) citing R.I. GEN. LAWS § 42-35-15(g)(5).

<sup>3</sup> Cahoone v. Board of Review of the Dept. of Emp. Security, 104 R.I. 503, 246 A.2d 213 (1968).

<sup>4</sup> Id., at 506-507, 246 A.2d at 215.

### III. APPLICABLE LAW

In the instant matter the Appellant was charged with violating § 31-47-9 of the Rhode Island General Laws which states in pertinent part:

**31-47-9. Penalties.** – (a) Any owner of a motor vehicle registered in this state who shall knowingly operate the motor vehicle or knowingly permit it to be operated in this state without having in full force and effect the financial security required by the provisions of this chapter, and any other person who shall operate in this state any motor vehicle registered in this state with the knowledge that the owner of it does not have in full force and effect financial security, except a person who, at the time of operation of the motor vehicle, had in effect an operator's policy of liability insurance, as defined in this chapter, with respect to his or her operation of the vehicle, may be subject to a mandatory suspension of license and registration as follows:

(1) For a first offense, a suspension of up to three (3) months and may be fined one hundred dollars (\$100) up to five hundred dollars (\$500);

(2) For a second offense, a suspension of six (6) months; and may be fined five hundred dollars (\$500);  
and

\* \* \*

### IV. ISSUE

The issue before the Court is whether the decision of the appeals panel was supported by reliable, probative, and substantial evidence in the record or whether or not it was clearly erroneous or affected by error of law. More precisely, was the appellant properly convicted of violating Gen. Laws 1956 § 31-47-9?

## V. ANALYSIS

There is no factual dispute in this case. At his trial Mr. Wolo admitted he drove without insurance. The verdict of guilt is therefore unassailable.

Regarding sentencing, we may note that the appellant's motor vehicle abstract, contained in the RITT record certified to this Court, shows that he had suffered a previous adjudication for driving without insurance on June 11, 2010, for which he received a \$100.00 fine. The trial magistrate was therefore authorized to impose a six-month loss of license for a second offense pursuant to Gen. Laws 1956 § 31-47-9(a)(2). The trial magistrate's finding that appellant had attempted to deceive the court was certainly a rational basis to impose the maximum penalty.

