

**STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc.**

**DISTRICT COURT
SIXTH DIVISION**

Emanuel Joia :
:
v. :
:
State of Rhode Island :
(RITT Appeals Panel) :

A.A. No. 2018 - 118

ORDER

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and 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 and Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the decision rendered by to the Appeals Panel in this case is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 29th day of May, 2019.

By Order:

_____/s/_____
Stephen C. Waluk
Chief Clerk

Enter:

_____/s/_____
Jeanne E. LaFazia
Chief Judge

**STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc.**

**DISTRICT COURT
SIXTH DIVISION**

Emanuel Joia	:	
	:	
v.	:	A.A. No. 2018-118
	:	(M17-0018)
State of Rhode Island	:	(16-409-152122)
(RITT Appeals Panel)	:	

FINDINGS & RECOMMENDATIONS

Ippolito, M. In this case Mr. Emanuel Joia urges that an appeals panel of the Rhode Island Traffic Tribunal (RITT) erred when it affirmed a decision of a Providence Municipal Court judge denying Appellant’s Motion to Vacate a default judgment which had been entered against him for a civil traffic violation — failing to stop for a stop sign. Jurisdiction for the instant appeal is vested in the District Court by G.L. 1956 § 31-41.1-9; the applicable standard of review is found in G.L. 1956 § 31-41.1-9(d). This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1.

For the reasons I will explain in this opinion, I have concluded that the Appeals Panel’s decision affirming Appellant’s conviction should be **AFFIRMED**. I so recommend.

I

Facts and Travel of the Case

We may glean from the electronic record attached to this case that, on March 30, 2017, Mr. Joia was cited by a member of the Providence Police Department for a violation of G.L. 1956 § 31-13-4, “Obedience to Traffic Devices — Stop Sign.” *See* Summons No. 16-409-152122 (in Electronic Record (ER), at 5, 19). As instructed, he appeared at the Providence Municipal Court for arraignment on May 2, 2017. When he was before the Court, the presiding judge extended an offer of resolution to Mr. Joia — that if he provided proof that he had completed eight hours of community service before his trial date, the violation would be dismissed. *Arraignment Transcript*, at 1; ER at 33, 58. Mr. Joia accepted. *Id.* at 2; ER at 34.

However, on the trial date, June 14, 2017, Mr. Joia did not appear; the case was called, but Mr. Joia did not respond. Accordingly, a default judgment was entered against him. *See Trial Date Transcript*, at 1; ER at 24, 60. Fines and costs totaling \$86.00 were imposed. *Id.* However, Mr. Joia was dissatisfied with this outcome; and so, on June 15, 2017, he filed a “Motion to Vacate Judgement,” which was heard on June 16, 2017. *See Motion to Vacate*, ER at 3, 10, 18. Appellant stated that he did the community service and had

tried, unsuccessfully, to drop it off with a clerk the week before, but the clerk refused to take it, insisting that he had to go before the judge. *See Motion to Vacate Transcript*, at 1; ER at 26. But when asked which day he had come in, Appellant responded — “... either Wednesday, Thursday, or Friday.” *Id.*

When the judge expressed his incredulity that a clerk would refuse to accept a letter, Mr. Joia insisted that the (unidentified) clerk had done so. *See Motion to Vacate Transcript*, at 2; ER at 27. However, when the judge said he would need specifics as to the date and time of the refusal, he could not provide any. *Id.*

The judge also suggested to Mr. Joia that, assuming his letter was indeed refused, he nonetheless should have come in on the scheduled trial date and presented his proof of community service directly to the judge. *Id.* Appellant, who conceded that no one told him that he did not have to come to Court, said he did come in — but was late. *Id.* Then, after the judge explained that the case was called first at 8:30 a.m., and again later, Mr. Joia interjected that he had been told to submit the documentation, and he had come to the Court to do so. *See Motion to Vacate Transcript*, at 3; ER at 28.

The judge then tried to reiterate the point he made earlier — *i.e.*, that if the clerk had refused to take his letter, he should have come to court

on the trial date:

... What you're saying is that I came in last week with this nice letter, and they refused to take it. So now it's your responsibility to show up on the trial date. It's you're at time out. I'm not done. At that point you're still not done. ...

Id. The judge also suggested that, when his letter was rejected, he had a right, as a citizen, to make a complaint. *Id.* Mr. Joia then took a different tack, and explained why he did not come in:

Your Honor, all right, lemme, lemme tell you why I didn't come. I've come, I've come to this, to this police station multiple times filing complaints, and I've been lied to, and have gotten no justice for things that have been done to me, multiple times. So when the lady told me that I had to come in from of you, I was like, what is the point? I got no type of written notification that I had to come in front of the judge, I did exactly what you asked of me, I-I did nothing wrong, I-I'm sorry that I wasn't here, but I did come in, I did come in after with the letter again to show to her.

See Motion to Vacate Transcript, at 4; ER at 29. Once again, the judge made the point that if the staff had rejected Mr. Joia's letter, he should have appeared, with his letter, to present it on the trial date. *See Motion to Vacate Transcript*, at 4; ER at 29. Mr. Joia replied:

I understand that, Your Honor, but like I said, your people didn't take my letter, I mean, there's nothin' I can do about it.

Id. After more banter, of a similar nature, albeit with embellishments, the

judge denied Appellant's Motion to Vacate. *See Motion to Vacate Transcript*, at 6; ER at 31.

Mr. Joia then filed an appeal from this ruling to the Rhode Island Traffic Tribunal, alleging that the municipal court reneged on the offer it had made to him. *See Notice of Appeal (RITT)*, ER at 7-9. He was heard before an appeals panel consisting of Magistrate Kruse Weller (Chair), Magistrate Noonan, and Chief Magistrate Guglietta on September 22, 2017. *See Decision of Appeals Panel*, at 1.

Almost nine months later, on June 11, 2018, the appeals panel issued its decision. The appeals panel held that, given its limited standard of review, it had no lawful basis upon which to overturn the municipal court's refusal to vacate its previously entered default. Therefore, the appeals panel upheld the judge's rejection of Mr. Joia's statement that a clerk refused to accept his documentary proof of community service, as it was the trial judge's role to assess credibility based on Appellant's demeanor and the other ambient realities. *Decision of Appeals Panel*, at 4-5; ER at 43-44 (citing *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993) and *A. Salvati Masonry Inc. v. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017)). It found that, since the decision below was supported by competent evidence, it had to affirm. *Id.* Ten days later, on June 21, 2018, Mr. Joia filed his appeal to

the District Court. *See Notice of Appeal (District Court)*, ER at 54-55.

II

Standard of Review

The standard of review which must be employed in this case is enumerated in G.L. 1956 § 31-41.1.-9(d), which states 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 prejudiced 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 provision is a mirror-image of the standard of review found in G. L. 1956 § 42-35-15(g) — a provision of the Rhode Island Administrative Procedures Act (APA). Accordingly, we are able to rely on cases interpreting the APA standard as guideposts in this process. 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.’” *Guarino v. Dep’t. of Soc. Welfare*, 122 R.I. 583, 584, 410 A.2d 425 (1980)(citing G.L. 1956 § 42-35-15(g)(5)). See also *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993).

Our Supreme Court has reminded us that reviewing courts lack “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 Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). This Court’s review “... is confined to a reading of the record to determine whether the judge’s decision is supported by legally competent evidence or is affected by an error of law.” *Link*, 633 A.2d at 1348 (citing *Env’tl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)).

III Analysis

The issue before the Court is whether the decision of the appeals panel met the standard of legality set forth in § 31-41.1-9(d) (*see ante* in Part II of this opinion, at 6). More precisely, the question is whether the panel acted properly in affirming the municipal court judge’s denial of Mr. Joia’s Motion to Vacate. I think it did. Mr. Joia’s Motion was heard on

Friday, June 16, 2017; during that hearing, he made serious accusations against an (unnamed) municipal court clerk. But, he could only narrow the day he came in (to present his documentation) to the Wednesday, Thursday, or Friday of the prior week. And he could not be precise as to the time of day that he came in. I think his inability to do so provided the municipal court judge with ample grounds to reject his accusations, for, in this day and age, the public knows that video recordings might be available — and easy to retrieve if a precise date and time is given. For this reason alone, the judge had reasonable grounds to reject the motion.¹

But Mr. Joia’s appeal would fail even if we were to credit his version of events unreservedly. He conceded that, when the court clerk refused to accept his proof of community service, she never told him that he did not have to come in on his scheduled court date. And he *intentionally* did not attend — admitting that he did not come in because of prior disappointments he had endured when he had filed prior complaints. For this second reason as well, we must find that the municipal court’s ruling

¹ Thus, this outcome is not dependent on the motion judge’s invocation of his knowledge of the clerk’s office’s habitual practice when forms are presented.

declining to set aside its previous default of Mr. Joia did not constitute error.²

IV
Conclusion

Upon careful review of the record and the positions of the parties, I conclude that the Decision issued by the appeals panel in this case was neither clearly erroneous in light of the evidence of record nor contrary to law; it was not made through an improper procedure; nor was it characterized by an abuse of discretion. Accordingly, I recommend that this Court **AFFIRM** the decision rendered by the Appeals Panel in this case.

 /s/
Joseph P. Ippolito
Magistrate

May 29, 2019

² This is not a case where the court told him that, in order to garner a dismissal, he had to present his documentation *before* the trial date. The judge made it clear to Mr. Joia that had he presented his proof on the trial date, it would have been honored.

