

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.
DISTRICT COURT

SIXTH DIVISION

Joann Maiorano

v.

RITT

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A.A. No.: 09-20

JUDGEMENT

This cause came on before Rahill, J. on Administrative Appeal, and upon review of the record, and a decision having been rendered, it is

ORDERED AND AJUDGED

The Court does not find the decision of the Appeals Panel clearly erroneous. Therefore, the decision of the agency is AFFIRMED.

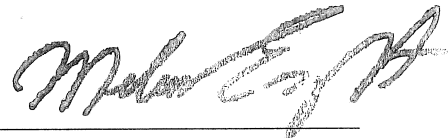
Dated at Providence, Rhode Island this 27th day of March, 2009.

ENTER:

BY ORDER:



Judge Robert Rahill



Clerk

Melvin J. Enright
Acting Chief Clerk

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DECISION

RAHILL, J. This matter is before the Court on the complaint of Joann Maiorano filed pursuant to Rhode Island General Laws § 31-41.1-9, seeking judicial review of a final decision rendered by the respondent, Appellate Panel of the Rhode Island Traffic Tribunal, which reversed the Decision of the Trial Magistrate.

The Trial Magistrate dismissed the charge of Chemical Test Refusal.

The Traffic Tribunal Appeals Panel determined that the decision of the Trial Magistrate was not a proper determination of the facts and a proper application of the law.

Thereafter, the State filed a complaint for judicial review in the Rhode Island District Court.

STANDARD OF REVIEW

The standard of review is provided by Rhode Island General Laws 31-41.1-9(d):

- (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 weight of evidence on questions of fact. The district court judge

may affirm the decision of the Appeals Panel, or may remand the case for further proceeding 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.

On questions of fact, 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. Department of Social Welfare, 122 R.I. 583, 584, 410 A.2d 425 (1980) citing Rhode Island General Laws Section 42-35-15(g)(5). The Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact. Cahoon v. Board of Review of the Department of Employment Security, 104 R.I. 503, 246 A.2d 213 (1968). Stated differently, the findings of the agency will be upheld even though a reasonable mind might have reached a contrary result. Cahoon v. Board of Review of the Department of Employment Security, 104 R.I. 503, 246 A.2d 213, 215 (1968). See also D'Ambra v. Board of Review, Department of Employment Security, 517 A.2d 1039, 1041 (R.I. 1986).

A review of the entire record demonstrates that the facts support the probable cause for the stop, and the testing done by the officer demonstrates sufficient evidence to ask for a breathalyzer test which the defendant refused.

In effect, the facts support the state suspending the license and the other statutory penalties called for.

The issue which has the attention of the Court is the question of jurisdiction. The site of the event that led to the suspension is between Warwick and West Warwick. This incident occurred in both communities. The border between the jurisdictions is a double yellow line. On the western side of the line is the territory supervised by West Warwick while the eastern side is supervised by Warwick. The witness testified that the two communities have a “Gentleman’s Agreement” as to where their responsibilities lie. There is, however, no formalized agreement as to these responsibilities.

Appellee argues that the officer lacked jurisdiction to effectuate an arrest. The Trial Magistrate adopted Officer Vible’s testimony in its entirety but found that much of what Officer Vible had witnessed occurred in West Warwick; therefore, the Officer lacked the jurisdiction to arrest Appellee.

On this ground, the Magistrate granted Appellee’s motion to dismiss. From that decision the state appealed.

The position of the state is that the evidence shows that the incident that brought the issue before the Officer was when the defendant’s vehicle almost stuck the sidewalk curbing on the Warwick side. Further evidence, according to Officer Vible, was that the event that called the attention of the police to the defendant’s vehicle occurred in West Warwick. The specific incident that caused the ultimate arrest started when the defendant almost stuck a curb located in Warwick.

The road in question is Providence Street which is in both Warwick and West Warwick. The portion of the road under the jurisdiction of Warwick is on one side of the yellow line and the jurisdiction under West Warwick is on the other side. There is no specific formalized

agreement as to the specific territorial obligation of each community. Instead, there is a “Gentleman’s Agreement” detailing those responsibilities.

It is, at best, a convoluted method of assigning responsibilities on the roadway.

But, ignoring any “Gentleman’s Agreement,” the incident in the matter may have been in both jurisdictions but was specifically in Warwick when the driver nearly hit the curb and continued to drive straddling the yellow lines.

There is a need for the towns to specifically define their responsibilities. However, the actions that took place that evening could have led to both jurisdictions exercising jurisdiction. It is clear to this Court that the actions took place in Warwick which led to the car being followed and further observed.

A review of the entire record demonstrated that there is substantial, probative and reliable evidence to support the findings of fact and the determination of the Appeals Panel.

On findings of fact, as to the weight of the evidence, neither this Court nor the Traffic Tribunal shall substitute its judgment for that of the Trial Magistrate.

The scope of the judicial review by this Court is limited by Section 31-41.1-9(d).

Upon careful review of the evidence, this Court finds that the decision of the Appeals Panel was not “clearly erroneous in view of the reliable, probative and substantial evidence on the whole record,” and that said decision was not “arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

Accordingly, the decision of the Appeals Panel is hereby affirmed.