

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

**DISTRICT COURT
SIXTH DIVISION**

Rahim Caldwell

v.

**State of Rhode Island,
(RITT Appeals Panel)**

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A.A. No. 18-184

JUDGMENT

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

ORDERED AND ADJUDGED

The decision of the Appeal Panel is affirmed.

Dated at Providence, Rhode Island, this 25th day of June, 2018.

Enter:

By Order:

/s/

/s/

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC.

DISTRICT COURT
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RAHIM CALDWELL

V

STATE OF RHODE ISLAND
(RITT APPEALS PANEL)

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6AA 2018 - 184

DECISION

WOODCOCK PFEIFFER, J. This matter is before the Court on the timely appeal of Rahim Caldwell (“Appellant”) from a decision of the Appellate Panel (“Panel”) of the Rhode Island Traffic Tribunal (“RITT”), which reaffirmed the decision of the RITT Magistrate dismissing Appellant’s Motion to Vacate the default judgment issued in his underlying RITT matter. The Court hereby affirms the decision of the Panel.

I

Facts and Travel of the Case

The origin of this appeal is the issuance of a summons to the Appellant on March 13, 2018, for parking in a restricted area due to a “snow emergency” on the Rhode Island College campus.¹ On April 24, 2018, Appellant appeared pro se at the RITT in response to the summons, at which time Magistrate Abbate entered a not guilty plea on his behalf. The certified RITT record for this proceeding indicates that the next hearing date was scheduled for June 26, 2018.² On June 26th, Appellant did not appear at the RITT and Magistrate Noonan accordingly entered a

¹ Universal Traffic Summons, Rhode Island College, No. 16511000733

² Certified RITT R. for Ct. No. T18-0015, Summons No. 16511000733, pg. 8, pg. 113

default judgment against him, imposing a fine of eighty-five dollars (\$85.00) plus costs for the parking violation. The transcript of the June 26th court hearing as appropriately submitted by Appellant reflects that the issuing officer, Robin Smith, was present in court to testify at 9:35 in the morning, when the case was called. Appellant subsequently filed a Motion to Vacate the default judgment, which was heard on July 23, 2018, before Magistrate Kruse Weller, who denied the motion. An appeal of that decision was filed with the Panel on August 1, 2018, by Appellant, and a decision on said appeal was rendered on December 11, 2018, upholding the Magistrate's denial of Appellant's Motion to Vacate.

Mr. Caldwell then filed this instant appeal with the District Court on December 20, 2018. After reviewing the certified record from the RITT, the Panel's decision, court transcripts, and the subsequent memorandum and brief filed by Appellant and the Respondent Attorney General's Office and, ever mindful of the standard of review that applies to these matters, the Court denies Appellant's appeal.

II **Standard of Review**

Review of the Panel's decision by the District Court is authorized under G.L. 1956 § 28-44-52. The standard of review which the District Court must apply is set forth under G.L. 1956 § 31-41.1-9(d), which provides:

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 standard of review is the same standard that the Panel must apply to RITT matters, under R.I.G.L. 1956 § 31-41.1-8.³ Finally, it is also the standard of review under the State's Administrative Procedures Act (APA), R.I.G.L. 1956 § 42-35-15(g). 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. Dept. of Social Welfare, 122 RI 583, 584, 410 A.2d 425, 428 (1980).

For instance, the Court will not substitute its judgment for that of the Panel as to the weight of the evidence on questions of fact. See Link v. State, 633 A.2d 1345, 1348 (RI 1993). Another words, except in a case where the Panel's decision is affected by an error of law, the decision must be affirmed as long as it is supported by legally competent evidence. See Bunch v. Bd. of Review, R.I. Dept. of Employment and Training, 690 A.2d 335, 337 (1997).

³ (f) Standard of review. 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 prejudiced 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.

III **Issue**

The actual issue on appeal is whether the Panel was incorrect in upholding the decision of the Magistrate to deny Appellant's Motion to Vacate the default judgment issued against him regarding an alleged parking violation. Appellant asserts that he wrote down the wrong court date for his hearing on the merits and that this was due to mistake or inadvertence. Thus, he argues that, under the RITT Rule of Procedure 20,⁴ the Magistrate should have granted his Motion to Vacate the default judgment. Although Appellant did not discuss in the Notice of Appeal filed with the District Court, or in his Memorandum of Law, any particular reason for his mistake or inadvertence, the Court notes that in the transcript of the hearing on the motion, as well in the appeal to the Panel, Appellant asserts that the actions of various RITT employees are to blame.⁵

Appellant, who has remained pro se throughout, raises additional matters as well in his appellate Memorandum of Law, but for various reasons discussed below, it is not appropriate for the Court to consider them at this time.

⁴ Rule 20, subsection (a) states: The court may, upon motion or on its own initiative, relieve a party or a party's legal representative from a judgment or order for the following reasons: (a) Mistake, inadvertence, surprise, or excusable neglect[.]

⁵Tr. of RITT court hearing, 07/23/2018, 2, Rahim Caldwell: "The 4/24 arraignment, which I was made physical threats by your staff, which caused me to write the wrong date down. I was waiting for a court date. The judge told me to wait for a court date and multiple people on your staff made threats to me. They extorted me out of my Constitutional right to be inside the court." (Certified RITT Tr. 36)

IV Analysis

(a) *Denial of the Motion to Vacate the default judgment*

RITT Rule of Procedure 20 provides the bases upon which the Court can consider for motions to grant relief from orders or judgments. As noted above, Appellant asserts that the Motion to Vacate the default judgment should have been granted under subsection (a) of RITT Rule of Procedure 20, based on ‘mistake’ or ‘inadvertence’. On the other hand, the Magistrate denied the Motion as not meeting the standard of excusable neglect, another basis provided in Rule 20(a). See footnote 4, *infra*.

The RI Supreme Court has not decided any matters related to RITT Rule of Procedure 20(a). It has, however, addressed similar language utilized in the Superior Court’s Civil Procedure Rule 60(b)(1), which supplies some of the grounds for relief from civil judgments or orders.⁶ That being said, the Court has only had the opportunity to determine if certain situations constitute excusable neglect, none of which are specifically on point to Appellant’s situation. What the Court has indicated that is directly relevant to this Appeal is that the existence of excusable neglect justifying relief from judgment is a question of fact to be proven by evidence. In *Santos v. D. Laikos, Inc.*, 139 A.3d 394, 400 (2016)

To be sure, “[t]he existence of excusable neglect is a question of fact to be proven by evidence.” *Iddings*, 657 A.2d at 553 (quoting *Vitale v. Elliott*, 120 R.I. 328, 331, 387 A.2d 1379, 1381 (1978)). “To trigger an evidentiary hearing supporting [a Rule 60(b)] motion, the moving party should present affidavits, sworn testimony, or witnesses who are prepared to testify at the hearing thereon to grounds that, if found to be true, would support a vacation of the judgment, order, or decision in question.” *DeLuca v. DeLuca*, 839 A.2d 1237, 1242 (R.I. 2004).

⁶ Superior Court Rule of Civil Procedure 60(b)(1) provides: “On motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for the following reasons: (1) Mistake, inadvertence, surprise, or excusable neglect”.

In keeping with the Supreme Court’s above opinion, the same would apply to any evaluation as to whether there was sufficient mistake or inadvertence in this situation to merit the granting of the Motion to Vacate.

The Magistrate’s decision to deny the motion was based on her finding of facts—that there was nothing in Appellant’s motion to support his argument that the judgment should be vacated due to his writing the incorrect court date down and no evidence presented to the court beyond Appellant’s statements on the record.⁷ Other issues raised by Appellant were not before the court at that time; judgment had been entered. This finding was affirmed by the Panel, which also pointed out the following.

Even if there were some simultaneous event that distracted Appellant from hearing or writing down the correct trial date, Appellant nonetheless had notice of the correct trial date. Indeed, the Rhode Island Traffic Tribunal subsequently mailed to Appellant’s address the “Notice of Your Next Court Date” form after his first appearance, which clearly listed the correct trial date. Moreover, it was well within the Appellant’s control to confirm the correct trial date either by asking the Hearing Magistrate to repeat the date prior to leaving the courtroom or checking the online public database.⁸

As this Court stated earlier, it cannot “substitute its judgment for that of the appeals panel as to the weight of the evidence on questions of fact.” § 31-41.1-9(d). The findings must be upheld even if a reasonable mind may have reached a different result. This Court therefore affirms the Decision of the Panel, which affirmed the decision of the Magistrate denying the Motion to Vacate the Judgment.

(b) Additional Issues Raised by Appellant

Appellant listed approximately eight additional concerns on his District Court Notice of Appeal and Memorandum of Law. By law this Court is unable to address these concerns largely

⁷Tr. of RITT court hearing, 07/23/2018, 3, 4 (Certified RITT R. 37, 38)

⁸ *R.I. v. Caldwell*, C.A. No. T-180015, 16511000733, RITT Appeals Panel Decision, p. 6 (Dec. 11, 2018)

for two reasons. First, the bulk of the issues raised were matters that would have been properly before a Magistrate at a hearing underlying the issuance of the summons. Once the default judgment was entered for failure of Appellant to appear for that hearing, the case effectively ended. If the Motion to Vacate the default judgment had been granted, another opportunity to have the hearing and to then address those concerns could have occurred. Unfortunately for Appellant, the Motion was denied and the decision was affirmed for the reasons cited by the Panel and this Court above.

Second, some of the issues raised on Appellant's Notice were not raised in the appeal before the RITT Appellate Panel and, under the well-known rule of appellate law "raise or waive", cannot be considered before this Court.⁹

V **Conclusion**

After a careful review of the record and applicable law, this Court hereby DENIES the appeal and affirms the finding of the Panel. The entry of the Default Judgment against Appellant in the RITT therefore stands.

⁹ See *Bouchard v. Clark*, 581 A.2d 715, 716-717 (R.I. 1990) (administrative appeal); *S. v. Barros*, 148 A.3d 168, 174-175 (R.I. 2016) (criminal appeal)