

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC

DISTRICT COURT
SIXTH DIVISION

STATE OF RHODE ISLAND

VS.

A.A. NO. 05-62

ERICH AUGENSTEIN

JUDGMENT

This cause came on before Gorman, J. on an appeal from the Rhode Island Traffic Tribunal Appeals Panel, and upon review of the record and memoranda of counsel, and a decision having been rendered, it is

ORDERED AND ADJUDGED

The relief requested in this appeal is denied.

Dated at Providence, Rhode Island, this 11th day of May, 2006

ENTER:

Walter Gorman

BY ORDER:

James Smith
CHIEF CLERK

proceedings below or in the memoranda submitted by the parties that suggests a sentence was imposed or a judgment was entered in this case. As was noted in the concurring opinion filed by the appeals panel, and in the state's brief submitted to this court, the complaint constitutes an interlocutory appeal which is not allowed under the traffic tribunal's rules.

After the absence of a final judgment was raised by the state, plaintiff did file a reply brief, but it did not address this issue. The plaintiff relies heavily on the case of State of Rhode Island v. Robert Trainor, Rhode Island Traffic Tribunal, No. T02-26 (decided August 28, 2002), where a judge went forward with a trial even though a state witness was not present, and found a violation of the traffic laws. That decision was reversed based on the appeals panel's finding that the state had not introduced any evidence of the offense. The panel determined that the trial judge should have dismissed the case. However, the Trainor opinion is inapposite here. It does not support the proposition that whenever the state is not ready to go forward, the case must be dismissed. (Of course, if that were the applicable rule, an appeal still could not be pursued until the tribunal found a violation.)

This court can find no reason to believe that by granting a continuance, the trial tribunal extinguished any of Mr. Augenstein's rights or affected him in some manner that could be construed as falling within Rule 21. It would lead to frequent and exceedingly long delays if a party in a traffic tribunal case could appeal every scheduling decision to the appeals panel and then to this court.

The relief requested in this appeal is denied because it is not authorized under Rule 21(a).