

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, S.C.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

:

v.

:

C.A. No. M10-0010

:

JOSEPH RAHED

:

:

DECISION

PER CURIAM: Before this Panel on September 1, 2010—Magistrate Noonan (Chair, presiding), Magistrate Cruise, and Magistrate DiSandro, sitting—is Joseph Rahed’s (Appellant) appeal from a decision of Judge Gariepy of the Woonsocket Municipal Court, sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to traffic control devices.” The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On February 13, 2010, Officer Matt Mendez (Officer Mendez) of the Woonsocket Police Department charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial.

At trial, Officer Mendez testified that on the day in question he was on patrol near the intersection of Elm Street and Social Street in the City of Woonsocket. (Tr. at 2.) Officer Mendez testified that that as he was traveling toward that intersection, he observed Appellant’s vehicle—Rhode Island registration number 87886—proceed

through the red light located at the intersection. (Tr. at 2-3.) Officer Mendez testified that he was no more than a car length behind the vehicle and that his view was unobstructed as he observed Appellant's vehicle proceed through the red light. (Tr. at 3.)

Next, Appellant presented his case before the court. He testified that he was leaving a Burger King restaurant as he headed northbound on Social Street. (Tr. at 4.) Appellant claimed that when he came to the intersection the light there was not red but green. Id. According to Appellant, the light was still green even as his car passed the painted stop line. Id. "I came up to the light, my front tire was passed [sic] the stop line, the light changed and I went thru [sic] it, proceeding with caution, and the light was not red. I did not see the red light." Id.

Following the trial, the trial judge sustained the charged violation of § 31-13-4. In the trial judge's view, there was clear and convincing evidence that Appellant violated the statute. The trial judge held: "The testimony of Officer Mendez and your [Appellant's] testimony was exactly the same, on point and both indicated that [there] was a violation of the statute. (Tr. at 7.) In sum, the trial judge found that Appellant failed to meet his responsibility as a driver when he proceeded through a stop light. (Tr. at 7.) The Appellant, aggrieved by this decision, filed a timely appeal to this Panel. Our decision is rendered below.

#### **Standard of Review**

Pursuant to G.L. 1956 § 31-41.1-8, the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate of the Rhode Island Traffic Tribunal. Section 31-41.1-8(f) provides in pertinent part:

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.

In reviewing a hearing judge or magistrate's decision pursuant to § 31-41.1-8, this Panel "lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact." Link v. State, 633 A.2d 1345, 1348 (R.I. 1993) (citing Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). "The review of the Appeals Panel is confined to a reading of the record to determine whether the judge's [or magistrate's] decision is supported by legally competent evidence or is affected by an error of law." Link, 633 A.2d at 1348 (citing Environmental Scientific Corp. v. Durfee, 621 A.2d 200, 208 (R.I. 1993)). "In circumstances in which the Appeals Panel determines that the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or is affected by error of law, it may remand, reverse, or modify the decision." Link, 633 A.2d at 1348. Otherwise, it must affirm the hearing judge's [or magistrate's] conclusions on appeal. See Janes, 586 A.2d at 537.

### Analysis

On appeal, Appellant argues that the trial judge's decision is characterized by abuse of discretion. Specifically, Appellant contends that the trial judge erred when chose to sustain the charge in spite of Appellant's contention that his car was already past the stop line when the light turned to yellow.

In Link, our Supreme Court made clear that this Panel "lacks 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 Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). ). As the members of this Panel did not have an opportunity to view the live trial testimony of Officer Mendez or Appellant, it would be impermissible to second-guess the trial judge's "impressions as he . . . observe[d] [Officer Mendez and Appellant] [,] listened to [their] testimony [and] . . . determine[ed] . . . what to accept and what to disregard[,] . . . what . . . [to] believe[] and disbelieve[]." Environmental Scientific Corp., 621 A.2d at 206.

Confining our review of the record evidence to its proper scope, the members of this Panel are satisfied that the trial judge's decision is not affected by error of law or clearly erroneous in view of the reliable, probative, and substantial record evidence. The trial judge, weighing the testimony presented, came to the conclusion that Appellant failed to abide by the traffic devices.<sup>1</sup> Thus, this Panel is satisfied that the trial judge's decision is not affected by error of law or clearly erroneous in view of the reliable, probative, and substantial record evidence.

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<sup>1</sup> While it is unclear from the transcript whether or not the trial judge determined that the light was actually red when Appellant was at the stop line, it is clear that the trial judge—based on the testimony before him— found that Appellant did not "clear the intersection" before the light turned red. (Tr. at 6.)

### **Conclusion**

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the trial judge's decision is not affected by an error of law or erroneous in light of the reliable, probative, and substantial evidence on the record. The decision is not in violation of statutory provisions. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.