

PROVIDENCE, S.C.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

DAVID BARROS

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C.A. No. T08-0066

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STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED

DECISION

PER CURIAM: Before this Panel on June 11, 2008, Judge Ciullo (Chair), Magistrate Noonan, and Magistrate DiSandro sitting, is David Barros' (Appellant) appeal from the decision of Chief Magistrate Guglietta, sustaining the charged violation of G.L. 1956 § 31-14-2 (B), "Prima Facie Limits." The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On March 18, 2008, at approximately 8:43 p.m., Appellant was given a citation by a Rhode Island State Trooper for the aforementioned violation. The Appellant contested the charge, and the matter proceeded to trial.

At trial, the Trooper testified that prior to citing Appellant, he was on a traffic detail on Route 295 South, near Exit A. (Tr. at 2.) At that time, a construction crew that was adjacent to the highway was putting out cones indicating that the first two lanes of travel were being closed. (Tr. at 2-3.) From his post, the Trooper observed "a car coming at [him] in the first lane of travel . . . at 80 miles an hour." (Tr. at 3.) The Trooper further testified that he used a calibrated radar unit to measure the vehicle's speed. Id. He also testified that he was trained in the use of radar speed units at the Rhode Island State Police Training Academy in October of 2004. Id.

Following the radar speed measurement, the Trooper followed the vehicle and initiated a motor vehicle stop. (Tr. at 4.) The Trooper testified that “the vehicle stopped on the ramp in the lane of travel on Exit 8A.” Id. The Trooper approached the vehicle and observed the operator, whom he subsequently identified as Appellant at trial. Id. The Appellant was then cited for violating § 31-14-2 (B) and G.L. 1956 §31-21-1, “Stopping on Traveled Portion of Open Highway Prohibited.”

After trial, the trial magistrate sustained Appellant’s violation of § 31-14-2 (B) and dismissed his violation of § 31-21-1. The Appellant has filed a timely appeal of the trial magistrate’s decision. Forthwith is this Panel’s decision.

Standard of Review

Pursuant to G.L. 1956 § 31-41.1-8(f), 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 on questions of fact. The appeals panel may affirm the decision of the judge or magistrate, may remand the case for further proceedings, or may 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 following unlawful procedure;
- (4) Affected by another error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

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 v. State, 633 A.2d 1345 (R.I. 1993). The Appeals Panel is “limited to a determination of whether the hearing justice’s decision is supported by legally competent evidence.” Marran v. State, 672 A.2d 875, 876 (R.I. 1996) (citing Link, 633 A.2d at 1348). The Panel may reverse a decision of a hearing judge where the decision is “clearly erroneous in view of the reliable, probative, and substantial evidence contained in the whole record.” Costa v. Registry of Motor Vehicles, 543 A.2d 1307, 1309 (R.I. 1988).

Analysis

On appeal, Appellant argued that he did not travel in excess of the speed limit. The Appellant contended that he could not have been speeding because the time between his citation and the time listed on a store purchase receipt demonstrated what he claimed was the impossibility of his violating the speed limit.

This Panel notes that the scope of review on appeal is “limited to a determination of whether the hearing justice’s decision is supported by legally competent evidence.” See Marran, 672 A.2d at 876. Accordingly, this Panel reviews whether the trial magistrate’s decision was supported by the reliable, probative, and substantial evidence in the record in order to sustain the charge. Furthermore, this Panel cannot substitute its judgment for that of the trial magistrate with respect to credibility determinations. Link v. State, 633 A.2d 1345 (R.I. 1993).

This Panel has reviewed the entire record before it. This Panel concludes that the trial magistrate’s decision was based on the Trooper’s testimony. The Trooper testified that he used a calibrated radar unit to measure Appellant’s vehicle speed and that he was trained in radar speed measurements at the Rhode Island State Police Training Academy in October of 2004. (Tr. at 3.)

Regarding the introduction of the Trooper's radar speed measurement, this Panel notes that the Rhode Island Supreme Court set forth the standard for admitting radar speed readings in State v. Sprague, 113 R.I. 351, 322 A.2d 36 (1974). The Sprague Court held that an officer's testimony describing his training and experience in the use of a radar unit, as well as testimony that the radar unit was calibrated on the day of the contested reading, constitutes "reasonable and sufficient proof of the accuracy of the radar unit." Id. at 357, 322 A.2d at 49.

Upon a review of the entire record, this Panel concludes that the Trooper's testimony satisfies the Sprague criteria for the admissibility of an accurate radar speed measurement. Accordingly, the trial magistrate's decision was based on the reliable, probative, and substantial evidence in the record. Consequently, this Panel sustains Appellant's violation of § 31-14-2 (B) and dismisses his appeal.

Conclusion

Upon a review of the entire record, this Panel is satisfied the trial magistrate's decision was not clearly erroneous and was not affected by error of law. Substantial rights of the Appellant have not been prejudiced. Accordingly, this Panel sustains the violation charged against the Appellant and dismisses his appeal.

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