

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

DEQUELL GOLSON

:
:
:
:
:

C.A. No. M16-0009
16408508089

DECISION

PER CURIAM: Before this Panel on February 8, 2017—Magistrate Goulart (Chair), Magistrate Abbate, and Judge Almeida, sitting—is Dequell Golson’s (Appellant) appeal from a decision of Judge John Gannon (Trial Judge) of the Pawtucket Municipal Court, sustaining the charged violation of G.L. 1956 § 31-20-9, “Obedience to stop signs.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On September 7, 2016, Officer Craig S. Letourneau¹ (Officer Letourneau) of the Pawtucket Police Department was “on posted traffic enforcement detail on [Park Street]” in Pawtucket. Tr. at 1. He witnessed a grey Nissan on Carnation Street fail to stop at a stop sign. Id. Officer Letourneau performed a traffic stop of Appellant for failing to stop at a stop sign and issued a summons to him. Id.

The Appellant’s trial was held on November 4, 2016. At trial, Officer Letourneau testified that on September 7, 2016, he was “posted [on a] traffic enforcement detail.” Id. Officer Letourneau had a clear view of a grey Nissan, which failed to stop at a stop sign on

¹ The trial transcript incorrectly names Officer Craig S. Letourneau as Officer “Craig Mattturner.” Tr. at 1. This Panel’s decision inserts the officer’s correct name into all citations to the record.

Carnation Street. Id. Officer Letourneau stopped the Nissan and identified the driver as the Appellant. Id.

The Appellant testified that the “streets are really tight” where he passed the stop sign and that he could not see it because tree limbs blocked his view. Id. The Appellant offered to show the Trial Judge pictures he had taken with his cell phone on October 28, 2016. Id. at 1-2. The Trial Judge and Officer Letourneau viewed the picture through Appellant’s cell phone. Id. at 1.

The Trial Judge closed the hearing and enunciated his findings on the record. Id. at 2-3. The Trial Judge stated that Officer Letourneau, “testified that he had a clear point of view and he saw that [Appellant’s] vehicle went straight through the stop sign.” Id. at 3. The Trial Judge addressed the pictures, stating “I understand your testimony was that the sign was not visible, barely visible, obstructed in some fashion by the tree. I looked at the photograph, it’s obstructed partially but I still think there’s enough there to determine[] that it[is] a stop sign.” Id.

At that point, the Appellant argued that there was also a vehicle that had also blocked his view of the stop sign. Id. The Trial Judge noted this on the record, and stated, “I understand what you’re saying is that there was a vehicle there possibly that you couldn’t see the sign, when you approach an intersection you have an obligation to reduce speed and be careful and look at the intersection carefully.” Id. at 4. The Trial Judge added that even if there was a vehicle there when he was pulled over, he should have seen the sign when he slowed down at the intersection. Id. The Trial Judge upheld the violation. Id. Appellant filed a timely appeal. Forthwith is this Panel’s decision.

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 prejudicial 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 Mut. Ins. 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.” Id. (citing Envtl. Sci. 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.” Id.

Otherwise, it must affirm the hearing judge's (or magistrate's) conclusions on appeal. See Janes, 586 A.2d at 537.

Analysis

The Appellant argues that the Trial Judge's finding that he had failed to stop at a stop sign was "clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Section 31-41.1-8(f)(5). Specifically, the Appellant believes that the cell phone pictures he provided show tree limbs obstructed his view of the stop sign. He argues that because of such pictures the Trial Judge should have ruled in his favor.

Rhode Island Traffic Tribunal Appeals Panels have held many times that it "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. Further, the members of this Panel were not at the trial, and will not question the Trial Judge's impressions of the testimony and evidence. Envtl. Sci. Corp., 621 A.2d at 206.

The Appellant relies on pictures that show that tree limbs obstructed his view of the stop sign. However, during trial, the Trial Judge stated, "I understand your testimony was that the sign was not visible . . . but I still think there's enough there to determine[] that it[is] a stop sign." Id.

This Appeals Panel has no authority to overturn the Trial Judge's decision based upon his interpretation of the pictures unless his decision is not "supported by legally competent evidence." Link, 633 A.2d at 1348. Here, there is ample evidence that the Appellant committed the violation by failing to stop at a stop sign. Officer Letourneau testified that he had witnessed the Appellant fail to stop. Tr. at 1. Appellant's pictures may offer a different perspective, but the Trial Judge chose to credit Officer Letourneau's testimony over the pictures Appellant took a

month and one-half after the violation. Id. at 4; State v. LaCroix, 911 A.2d 674, 679 (R.I. 2006) (citing Bogosian v. Bederman, 823 A.2d 1117, 1120 (R.I. 2003)) (holding a reviewing court “will not disturb the trial justice’s findings unless they are clearly wrong or the trial justice misconceived or overlooked material evidence on a controlling issue”).

For those reasons, this Appeals Panel finds that there was “legally competent evidence” that the Appellant failed to stop at the stop sign. Link, 633 A.2d at 1348. Therefore, the Trial Judge’s decision was not “clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.” Section 31-41.1-8(f)(5).

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 was not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violation is sustained.

ENTERED:

Magistrate Alan R. Goulart (Chair)

Magistrate Joseph A. Abbate

Associate Judge Lillian M. Almeida

DATE: _____