

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

:

v.

:

**C.A. No. T14-0062
14001531250**

:

DEBORAH SAULNIER

:

DECISION

PER CURIAM: Before this Panel on January 21, 2015—Chief Magistrate Guglietta (Chair), Magistrate Noonan, and Magistrate Abbate, sitting—is Deborah Saulnier’s (Appellant) appeal from a decision of Judge Almeida (Trial Judge), sustaining the charged violation of G.L. 1956 § 31-15-11, “Laned roadways.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On September 2, 2014, Trooper James Hudson of the Rhode Island State Police (Trooper) charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on October 29, 2014.

At trial, the Trooper testified that at approximately 12:27 in the morning on September 2, 2014, he was traveling south in the left lane on Route 146, prior to Mineral Spring Avenue in the Town of Lincoln. (Tr. at 5.) The Trooper observed a blue Toyota sedan with Massachusetts registration “42040WC” traveling south in the right lane on Route 146. Id. The Trooper stated that he witnessed the vehicle “weave [into] the right breakdown lane and then back into the lane of travel.” Id. At that time, the Trooper initiated a motor vehicle stop prior to Mineral Spring

Avenue on Route 146 South. Thereafter, the Trooper identified the Appellant as the motorist by her Massachusetts drivers license. Id.

Subsequently, Appellant testified that she entered Route 146 at the Twin River exit, where Route 146 has three lanes. Id. at 11. The Appellant stated that she switched lanes to avoid the Old Lousiquisset exit. Id. at 12. She explained that at the point where she entered Route 146, there is only a 2/10 of a mile span where a vehicle can move over before reaching the Old Lousiquisset exit. Id. The Appellant further testified that she did not cross the fog line. Id. at 23.

After hearing the testimony presented, the Trial Judge found the Trooper's testimony to be credible. The Trial Judge adopted the Trooper's testimony that Appellant crossed the white fog line on Route 146 South and sustained the violation. Aggrieved by the Trial Judge's decision, Appellant timely filed this appeal.

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 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 contends that the Trial Judge’s decision to sustain the charged violation was affected by error of law and was not supported by reliable, probative, and substantial evidence on the record. Specifically, Appellant maintains that she was not notified that exercising her right to trial would preclude her from using the “good driver” statute. Furthermore, Appellant contends that she was not afforded a fair and impartial trial because evidence was improperly characterized on the record.

The Good Driving Statute

Rhode Island General Law § 31-41.1-7, “Application for dismissal based on good driving record,” permits a driver “who has had a motor vehicle operator's license for more than three (3) years, and who has been issued traffic violations which are . . . her first violations within the preceding three (3) years, may request a hearing seeking a dismissal of the violations based upon the operator's good driving record.” Sec. 31-41.1-7. In this case, the Trial Judge asked Appellant if she wanted to use her good driving record to dismiss the violation, and Appellant declined. (Tr. at 2-4.) On appeal, the Panel again asked Appellant if she wanted to dismiss the violation with her good driving record, and Appellant declined. Therefore, Appellant was fully informed of her right to dismiss the laned roadway violation pursuant to § 31-41.1-7.

Evidence on the Record

Appellant argues that she was not afforded a fair and impartial trial because evidence was improperly characterized on the record. This Panel is mindful that “[t]he appeals panel is limited to a determination of whether the hearing justice’s decision is supported by competent evidence.” Marran v. State, 672 A.2d 875, 876 (R.I. 1996) (citing Link v. State, 633 A.2d at 1348). It is well-settled that credibility determinations are within the province of the hearing judge. Link, 633 A.2d at 1348. Consequently, this Panel will not substitute its own judgment for that of the Trial Judge. See § 31-41.1.8 (f).

Here, the Trooper testified that he observed Appellant’s vehicle “weave [into] the right breakdown lane and then back into the lane of travel.” (Tr. at 5.) However, Appellant countered the Trooper’s testimony by stating that she had to move over to avoid the exit, and that she was the only car on the road. Id. at 12.

Subsection (a) of § 31-15-11 provides in relevant part: “[a] vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.” Section 31-15-11 (emphasis added.) This statute provides an exception to the general rule by allowing motorists to drive outside of a single lane provided it is safe to do so. The record is devoid of any factual findings to show that it was unsafe for Appellant to cross over the line. Marran, 672 A.2d at 876. As a result, an element of the violation was not proven at trial, and therefore the charged violation cannot be sustained.

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 in violation of statutory provisions and affected by error of law. Substantial rights of Appellant have been prejudiced. Accordingly, Appellant’s appeal is granted, and the charged violation dismissed.

ENTERED:

Chief Magistrate William. R. Guglietta (Chair)

Magistrate William T. Noonan

Magistrate Joseph A. Abbate

DATE: _____