

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

**STATE OF RHODE ISLAND
(Airport Police Department)**

v.

JOSE A. RODRIGUEZ

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**C.A. No. T13-0047
07422001451**

DECISION

PER CURIAM: Before this Panel on July 31, 2013—Magistrate Goulart (Chair, presiding), Chief Magistrate Guglietta, and Magistrate DiSandro, sitting—is Jose Rodriguez’s (Appellant) appeal from a decision of Magistrate Noonan (trial judge), sustaining the charged violation of G.L. 1956 § 31-12-12, “Powers of local authorities.”¹ Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On April 14, 2013, an officer of the Airport Police Department charged Appellant with the aforementioned violation of the motor vehicle code. In particular, the Officer charged Appellant with a violation of the Rules and Regulations for Ground Transportation at T.F. Green State Airport, § 2-2-2, “No Solicitation.” Appellant contested the charge, and the matter proceeded to trial on June 27, 2013.

At the time of the stop, the Officer was on patrol in the arrivals terminal of T.F. Green State Airport, in Warwick, Rhode Island. (Tr. at 1.) The Officer testified that he observed an unauthorized taxi pull onto a commercial road that is designated for airport taxis. Id. The Officer noticed the “airport taxi dispatcher” making gestures towards the unauthorized taxi,

¹ Section 31-12-12 provides in pertinent part that local authorities, through the exercise of reasonable police power, have jurisdiction over the regulation of the standing and parking of vehicles.

indicating that the driver needed to leave the curb. Id. As the Officer approached the unauthorized taxi, he noted that the driver was leaning out of the passenger side window, beckoning customers to his taxi. Id. The Officer testified that Airport regulations prohibit unauthorized taxis from soliciting customers at the airport. Id.

Appellant argued that he was not in violation of § 2-2-2 of the Airport regulations. (Tr. at 2.) Appellant maintained that he was not soliciting customers from an unauthorized area of the airport. Id. Rather, Appellant asserted that he had been dispatched to pick up a customer from the arrivals terminal and was parked along the curb waiting for his customer to exit the airport building. Id. Appellant conceded that he was waving out of the passenger side window to the people on the sidewalk. Id. However, Appellant maintained that he was not waving to the customers on the sidewalk in an effort to solicit business, but rather was attempting to get the attention of one of those persons, who he believed might be the customer he had been dispatched to pick up. Id.

After both parties were given an opportunity to present evidence, the trial judge determined that the Officer was a credible witness. (Tr. at 3.) The trial judge accepted the Officer's testimony that Appellant had parked his taxi in an unauthorized area at T.F. Green State Airport. Id. At the close of his bench decision, the trial judge sustained the violation and imposed the minimum fine of \$85. (Tr. at 4.) Aggrieved by the trial judge's decision, the Appellant timely filed this appeal.

Standard of Review

Pursuant to § 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 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 other 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.”

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 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 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 conclusions on appeal. See Janes, 586 A.2d at 537.

Analysis

On appeal, Appellant argues that the trial judge’s decision was clearly erroneous. Appellant maintains that he was not in violation of § 2-2-2 of the Rules and Regulations for

Ground Transportation at T.F. Green State Airport. Specifically, Appellant maintains that he had been dispatched to pick up a passenger at the arrivals terminal of T.F. Green State Airport, which is permitted under the statute.

Section 2-2-2, “No Solicitation,” provides:

“Except for Authorized Users, all business conducted by a Driver at the Airport shall be on a ‘call and demand’ bases initiated by a customer. A Driver shall not: (i) enter the Airport or use the Airport roads unless: (a) the Driver is transporting a customer to the Airport; or (b) the Driver has been previously summoned by a customer prior to entry; or (ii) while at the Airport, engage in solicitation.”

The Rhode Island Supreme Court has made clear that when interpreting a statute, if the language of a statute is clear and unambiguous, the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meaning. State v. Clarke, 974 A.2d 558, 571-72 (R.I. 2009); State v. Santos, 870 A.2d 1029, 1032 (R.I. 2005). Our Supreme Court has opined:

[I]f a law is plain and within the legislative power, it declares itself, and nothing is left for interpretation . . . it is axiomatic that [the] Court will not broaden statutory provisions by judicial interpretation unless such interpretation is necessary and appropriate in carrying out the clear intent of defining the terms of the statute.

Santos, 870 A.2d at 1032 (citations and internal quotations omitted). The aforementioned statute prohibits all unauthorized taxis from engaging in solicitation while at T.F. Green State Airport. The statute does, however, permit unauthorized taxis to enter T.F. Green State Airport if a customer has called and initiated its services.

After listening to the evidence, the trial judge determined that the Officer was a credible witness. (Tr. at 3.) The trial judge concluded that testimony offered by the Officer was sufficient to sustain the aforementioned violation. (Tr. at 3.) In his decision, the trial judge found it significant that Appellant was parked in a location where he should not have been

parked. (Tr. at 4.) Additionally, the trial judge noted that Appellant, himself, admitted to being “parked in a lane outside the airport . . . to get passengers.” Id. 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)). Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge’s findings were not clearly erroneous. See Link, 633 A.2d at 1348.

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 or affected by error of law. 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)

Chief Magistrate William R. Guglietta

Magistrate Domenic A. DiSandro, III

DATE: _____