STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT **RHODE ISLAND TRAFFIC TRIBUNAL**

STATE OF RHODE ISLAND	**:**	
	:	
v.	**:**	**C.A. No. T16-0005**
	:	**85507W11663**
JOSEPH E. SANDS	**:**	

DECISION

PER CURIAM: Before this Panel on April 6, 2016—Magistrate Abbate (Chair), Judge Almeida, and Magistrate Noonan, sitting—is Joseph Sands' (Appellant) appeal from a decision of Magistrate Goulart (Hearing Magistrate), denying Appellant's Motion for Relief from Judgment or Order. The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

In 1985, Appellant was charged with "Refusal to submit to chemical test" pursuant to § 31-27-2.1. (2/18/16, Tr. at 1.) At the time of the violation, Appellant was a resident of Connecticut and was visiting Rhode Island only briefly. Id. at 2. On September 5, 1985, Appellant appeared before this Tribunal and pled guilty to the charged violation. Id. Appellant was sanctioned to a period of license suspension, a fine, attendance at a driver retraining program, and ten hours of community service. Id. Appellant paid the fine but did not complete the community service or driver retraining that was ordered as part of the disposition, resulting in the suspension of his driving privileges in the State of Rhode Island. Id.

In 2015, Appellant attempted to renew his driver's license in Connecticut. (App.'s mem. at 1.) The Connecticut Registry of Motor Vehicles (CRMV) denied his license renewal because

of his Rhode Island suspension. Id. The CRMV advised Appellant that in order to renew his license, he was required to have his Rhode Island driving privileges restored. Id. Appellant contacted the Rhode Island Department of Motor Vehicles (DMV). Id. at 3. The DMV informed Appellant that in order to restore his driving privileges in Rhode Island, he would have to complete the remaining portion of his sentence: ten hours of community service and a driver retraining program. Id.

On November 19, 2015, at the Rhode Island Traffic Tribunal, Appellant filed a Motion for Relief from Judgment or Order. The matter was heard before the Hearing Magistrate on February 18, 2016. At the hearing, Appellant's counsel argued that the Appellant should not be required to complete the remaining portion of his sentence because of the extensive period of time that has passed since his sentencing. (2/18/16, Tr. at 2.) Counsel relied on Rhode Island Traffic Tribunal Rule of Procedure 20(e), in claiming that the judgment order "is no longer equitable" and that "mak[ing] [Appellant] go to community service or driver retraining thirty-one years later, simply does not make any sense." Id.

The Hearing Magistrate disagreed. Id. at 3. Specifically, the Hearing Magistrate stated "[Appellant] paid the fine and then took off to Connecticut and basically thumbed his nose at the system and says if I stay out of Rhode Island long enough I won't have to do community service hours or complete driver re-training. . . ." Id. Furthermore, the Hearing Magistrate determined that "community service hours [and] driver re-training . . . are mandatory under the statute" and "I can't waive something that's mandatory." Id. Counsel rejected this determination, insisting that subjecting Appellant to driver re-training thirty-one years after his sentencing is inequitable. Id.

After hearing counsel's equitable relief argument, the Hearing Magistrate concluded: "[Appellant] had an obligation thirty-one years ago and he chose to ignore that obligation and now is asking that I waive it because of his intentionally ignoring that obligation. I don't think I have the authority to do so." Id. at 4. Accordingly, the Hearing Magistrate denied Appellant's Motion. Id. at 5. Aggrieved by the Hearing Magistrate'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 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." Link, 633 A.2d at 1348 (citing Envtl. 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 Hearing Magistrate's decision was affected by error of law and clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant argues that the equitable considerations of Traffic Tribunal Rule 20(e) required that the Hearing Magistrate waive the remainder of Appellant's sanctions. Appellant insists that enforcing the reminder of his sanctions after thirty-one years is inequitable.

Mandatory Sanctions

Appellant argues that the Hearing Magistrate had the authority to waive the mandatory sanctions imposed by § 31-27-2.1. We disagree.

Section 8-6-2(a) "enables the various courts of this state to promulgate rules regulating the 'practice, procedure, and business therein.'" See State v. Robinson, 972 A.2d 150, 158 (R.I. 2009) (quoting § 8-6-2(a)). In regards to this Tribunal, "the General Assembly clearly has provided that the [C]hief [M]agistrate can enact rules to regulate the 'practice, procedure, and business within [this] tribunal.'" Id. (citing §§ 8-6-2; 8-8.2-1). Rule 20(e) of the Traffic

Tribunal Rules of Procedure is one such rule enacted to regulate the "practice, procedure, and business therein." See Traffic Trib. R. P. 20(e).

Appellant accurately states that Rule 20(e) vests the members of this Tribunal with the authority to grant relief from a judgment or order. However, Appellant fails to recognize that this authority is limited by § 8-6-2(a), and cannot be expanded beyond the jurisdictional bounds of this Tribunal. See Robinson, 972 A.2d at 158 (stating "the Traffic Tribunal cannot use its rules to expand its own jurisdiction"). Rather, the authority "must be confined to regulating the pleading, practice and procedure therein" and cannot "be extended to categories not reasonably comprehended by those terms." Robinson, 972 A.2d at 158-59 (citing Dyer v. Keefe, 97 R.I. 418, 423, 198 A.2d 159, 162 (1964)). This rule-making authority "does not allow a court to promulgate a rule that intrudes upon substantive legislative matters." Id. at 159.

The mandatory sanctions imposed by § 31-27-2.1 are substantive legislative matters. They are not procedural because they are not related to pleading, practice, or procedure. See Keefe, 97 R.I. at 422, 198 A.2d at 161 (finding that procedure includes "whatever is embraced by the three technical words 'pleading,' 'evidence' and 'practice' . . . it is the machinery for carrying on the suit"). Id. The imposition of mandatory sanctions has no bearing on the "carrying on [of] the suit," nor does it affect the "pleading," "evidence," or "practice" of litigation. Id. Therefore, the imposition of mandatory sanctions is a matter reserved to the Legislature.

The mandatory sanctions at hand—driver retraining and community service—are obligatory penalties, set forth by the General Assembly, for non-compliance with § 31-27-2.1. See Levesque v. R.I. Dept. of Transp., 626 A.2d 1286 (R.I. 1993). Thus, when a motorist is found to have refused a chemical test in violation of § 31-27-2.1, this Tribunal must strictly

apply those sanctions. See Robinson, 972 A.2d at 158-59 (Section 8-6-2(a) "does not allow a court to promulgate a rule that intrudes upon substantive legislative matters").

On September 5, 1985, the Appellant appeared before this Tribunal and was found to be in violation of § 31-27-2.1. (2/18/16, Tr. at 1.) The Appellant was sentenced to complete the mandatory sanctions of driver retraining, community service, payment of a fine, and a period of license suspension. Id. The Appellant failed to complete the entirety of his sentence and requests that this Panel waive the remainder of his sentence. Id. We have no authority to do so. The Legislature has set forth that community service and drive retraining are obligatory consequences of refusing the breathalyzer pursuant to § 31-27-2.1. See § 31-27-2.1(b)(1). Therefore, we must strictly apply those sanctions.

Timeliness

Appellant maintains that Rule 20(e) should apply because the judgment of conviction and accompanying sanctions entered thirty-one years ago are "no longer equitable." Even if this Panel had the authority to grant Appellant's request for relief, we would be disinclined to do so because the request is untimely.

Rule 20(e) sets forth, in pertinent part, "[t]he court may . . . relieve a party . . . from a judgment or order for the following reasons: [t]he judgment or order has been satisfied, released, or discharged, or the judgment or order is no longer equitable that the judgment or order should have prospective application." See Traffic Trib. R. P. 20(e).

A motion made pursuant to this rule "shall be made within a reasonable time." Id. Generally, "if the facts suggest undue delay," then a court may bar relief. See Tierney v. Conley, 590 A.2d 865, 866 (R.I. 1991) (finding a motion for relief from judgment made within one year of the judgment was not reasonable where the facts indicated undue delay).

Here, Appellant's Motion was brought on November 19, 2015, thirty-one years after the entry of final judgment. In his discretion, the Hearing Magistrate declined to rule on the reasonableness of the timing. We, however, express our understanding that under any circumstance, thirty-one years would not constitute a "reasonable time" period. See Cirelli v. Deignan, 667 A.2d 1260, 1261 (Mem) (R.I. 1995) (finding a motion for relief from judgment filed eleven months after entry of final judgment to be unreasonable); see also Waldeck v. Domenic Lombardi Realty, Inc., 425 A.2d 81, 84 (R.I. 1988) (finding a motion for relief from judgment filed sixteen months after entry of final judgment to be unreasonable).

Thirty-one years certainly suggests undue delay. Tierney, 590 A.2d at 866. Therefore, this Panel finds Appellant's request for relief to be unreasonable and untimely.[1]

Our decision is consistent with the findings made by the Hearing Magistrate. In denying Appellant's Motion, the Hearing Magistrate stated, "[t]hose are mandatory under the statute" and "I can't waive something that's mandatory." (2/18/16, Tr. at 3.) We adopt the findings of the Hearing Magistrate and reiterate that this Tribunal does not have the authority to waive mandatory sanctions prescribed by the Legislature.[2]

[1] Besides, "he who seeks equity must do equity." See Leonard Levin Co. v. Star Jewelry Co., 54 R.I. 465, 653, 175 A. 651 (1934). This adage "closes the doors of a court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief." Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806, 814 (1945). This Tribunal is, by no means, a court of equity and has no equitable jurisdiction. However, we quote this maxim to express our opinion that even if we had equitable jurisdiction, Appellant would be barred from seeking equitable relief as his deliberate disregard of his sentencing obligations, thirty-one years ago, surely demonstrates unclean hands. See Kingston Hill Academy v. Chariho Regional School Dist., 21 A.3d 264, 270 (R.I. 2011) (stating "[i]t is only when the plaintiff's improper conduct is the source, or part of the source, of his equitable claim, that he is to be barred because of this bad conduct pursuant to the doctrine of unclean hands").

[2] Counsel has requested that this Panel address a hypothetical situation that he posed to this Panel during his appellate argument. This Panel declines to entertain a hypothetical musing that is so irrelevant and extraneous to the charged violation.

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the Hearing Magistrate's decision was supported by the reliable, probative, and substantial evidence of record. This Panel is also satisfied that the Hearing Magistrate's decision was not clearly erroneous and not otherwise affected by error of law. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

ENTERED:

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Magistrate Joseph A. Abbate (Chair)

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Judge Lillian M. Almeida

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Magistrate William T. Noonan

DATE: _____