

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

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:
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v.

**C.A. No. T14-0048
14001517541**

MANELIK VALLEJO

DECISION

PER CURIAM: Before this Panel on March 11, 2015—Magistrate Goulart (Chair), Judge Almeida, and Administrative Magistrate DiSandro III, sitting—is Manelik Vallejo’s (Appellant) appeal from a decision of Judge Parker (Trial Judge) sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On May 21, 2014, a Trooper of the Rhode Island State Police Department charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on August 7, 2014.

At trial, the Trooper testified that on May 21, 2014, he was “assigned to a speed enforcement detail out of the Wickford Barracks in an area that was prone to fatal motor vehicle accidents.” (Tr. at 2.) The Trooper was on a stationary post on Route 95 South in the city of Warwick. Id. Subsequently, the Trooper testified that he was instructed on the use of radar in the Rhode Island State Police Academy in 1992. Id. at 3. Moreover, his radar was internally and externally calibrated prior to use, and found to be in good working order. Id. Thereafter, the Trooper testified that he observed a red SUV with Rhode Island registration “3278,” traveling at a speed greater than the posted speed limit of 55 miles per hour (mph). The Trooper’s radar

registered the vehicle traveling at 84 mph. Id. The Trooper followed the SUV and initiated a traffic stop. Id. The Trooper identified the driver as the Appellant. Id. at 4. The Trooper issued Appellant a summons and stated that he “extended a tremendous amount of courtesy” by reducing the speed on the summons to 65 mph. Id.

Subsequently, Appellant questioned the Trooper about his location prior to the stop. Id. The Trooper explained that he was at a stationary radar post in the breakdown lane, in the vicinity of Route 295. Id. at 5. The Appellant testified that the area the Trooper described is far from Route 95, and based on the information provided by the Rhode Island DOT, the speed limit in the area is 65 mph. Id. at 6. Furthermore, he stated that he was driving the speed limit and using his cruise control. Id. at 6-7.

Next, the Trooper explained the various speed limits of Route 95, stating: “All of Providence is 50 mph. Once you reach Cranston, it’s 55 mph. Once you reach Route 2, it’s 65 mph, so in that area, it’s 55 mph.” Id. at 8. The Appellant then stated that the Trooper was posted in the junction of Route 4 and Route 95, and the speed limit in that area is 65 mph. Id.

After both parties were given an opportunity to present evidence, the Trial Judge issued a decision sustaining the charged violation. Id. The Trial Judge found that the Trooper was trained to use his radar and the radar was properly calibrated. Id. at 9. The radar indicated Appellant was traveling at 84 mph in a posted 55 mph zone. Id. Moreover, after listening to the Appellant and the Trooper testify to the Trooper’s location and the speed limit, the Trial Judge found that the Trooper’s testimony that the speed limit was 55 mph was credible. Id. at 8-9. Based on these findings, the Trial Judge established that the Trooper had met his burden of proof. Id. at 9. Thus, the Trial Judge sustained the charged speeding violation. Aggrieved by the Trial Judge’s decision to sustain the charge, 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 was clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant avers that the Trial Judge failed to consider the video on his phone. Furthermore, Appellant maintains that the location where he was pulled over was a 65 mph speed zone.

The Rhode Island Rules of Evidence governs “all proceedings before the Traffic Tribunal.” Traffic Trib. R. P. 15(b). The Rhode Island Rules of Evidence explains that “all relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the constitution of Rhode Island, by act of congress, by the general laws of Rhode Island, by these rules, or by other rules applicable in the courts of this state.” R.I. R. Evid. 402. Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” R.I. R. Evid. 401. “It is well settled law in this state that ‘decisions about the admissibility of evidence on relevancy grounds are left to the sound discretion of the trial justice; this Court will not disturb those decisions on appeal absent an abuse of discretion.’” State v. Carvalho, 892 A.2d 140, 148 (R.I. 2006) (quoting State v. Grayhurst, 852 A.2d 491, 505 (R.I. 2004)). In order to introduce a video into evidence, the video must be authenticated, meaning that the video “is received into evidence only after a witness with personal knowledge testifies that it is a true and accurate representation.” State v. Brown, 88 A.3d 1101, 1117 (R.I. 2014).

Here, Appellant did not move to introduce the video to the court at trial. Thus, the Trial Judge was not able to consider the admissibility of the video, because the evidence was never presented to the court. See Tr. at 6 and 8.

In Link, our Supreme Court made clear that 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, 633 A.2d at 1348 (citing Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). As the members of this Panel did not have an opportunity to view the live trial testimony of the Trooper or Appellant, it would be impermissible to second-guess the Trial Judge’s “impressions as he . . . observe[d] [the Trooper and Appellant] [,] listened to [their] testimony [and] . . . determine[ed] . . . what to accept and what to disregard[,] . . . what . . . [to] believe[] and disbelieve[.]” Environmental Scientific Corp., 621 A.2d at 206.

At trial, Appellant testified that the speed limit was 65 mph. (Tr. at 8.) The Trial Judge considered this testimony as well as the Trooper’s detailed analysis of the state speed limit locations. Id. at 8-9. After considering the testimony and evidence provided at trial, the Judge determined that the Trooper’s testimony was not only credible, but the testimony was also sufficient to sustain the charged violation. “[The appellate court] [is] not privileged to assess the credibility of witnesses and may not substitute our judgment for that of the trial [judge] concerning the weight of the evidence on questions of fact).” Environmental Scientific Corp., 621 A.2d at 208 (quoting Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). In his decision, the Trial Judge credited the Trooper’s testimony that the radar unit determined that Appellant’s motor vehicle was 84 mph in a 55 mph area and that the unit was calibrated and in good working condition. (Tr. at 9.) The Trial Judge was satisfied by clear and convincing

evidence that the State met its burden of proof in the case. Accordingly, the Trial Judge found the Appellant guilty.

Confining our review of the record to its proper scope, this Panel is satisfied that the Trial Judge did not abuse his discretion, and his decision to sustain the charged violation is supported by legally competent evidence. Environmental Scientific Corp., 621 A.2d at 209 (The [appellate court] should give great deference to the [trial judge's] findings and conclusions unless clearly wrong.).

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 supported by the reliable, probative, and substantial evidence of record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

ENTERED:

Magistrate Alan R. Goulart (Chair)

Judge Lillian M. Almeida

Administrative Magistrate Domenic A. DiSandro, III

DATE: _____