

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**CRANSTON, RITT**

**RHODE ISLAND TRAFFIC TRIBUNAL**

**STATE OF RHODE ISLAND**

v.

**MEGAN ZEITLER**

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**C.A. No. M17-0013  
17102500392**

**DECISION**

**PER CURIAM:** Before this Panel on July 19, 2017—Chief Magistrate Guglietta (Chair), Associate Judge Parker, and Magistrate Kruse Weller, sitting—is Megan Zeitler’s (Appellant) appeal from a decision of Judge Jane Howlett (Trial Judge) of the Bristol Municipal Court sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to devices.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

**I**

**Facts and Travel**

On February 15, 2017, Patrolman Russell Wood (Patrolman Wood) of the Bristol Police Department conducted a traffic stop of Appellant’s vehicle in the Cumberland Farms’ parking lot located at the intersection of Bayview Avenue and Metacom Avenue. (Tr. at 2.) At that time, Officer Wood issued Appellant a citation for the abovementioned violation after he observed Appellant proceed through an intersection while the traffic control device signaled red. *Id.* at 3; *see also* Summons No. 17102500392.

On May 9, 2017, the matter proceeded to trial. (Tr. at 1.) At trial, Patrolman Wood testified that just before he observed Appellant, he was stopped at the red light, facing “northbound on Metacom Avenue at the intersection of Bayview Avenue.” *Id.* at 3. After the

light had turned green for several seconds, Patrolman Wood “observed a vehicle traveling at a high rate of speed westbound on Bayview Avenue towards the intersection.” *Id.* He added that the vehicle was traveling fast enough that the bottom of the vehicle scraped the roadway as it passed through the intersection. *Id.*

After observing the vehicle pass through the intersection, Patrolman Wood conducted a traffic stop of the vehicle in “the parking lot of the Cumberland Farms on Metacom Avenue.” *Id.* Patrolman Wood “approached the operator and advised her of . . . the reason for the stop and identified her [as Appellant] by her Rhode Island driver’s license.” *Id.* He then issued Appellant the citation for failing to stop at the red light. *Id.* Patrolman Wood added that after issuing Appellant the citation, he “returned to the intersection and observed the traffic light for three rotations and found it to be in proper working order.” *Id.*

Patrolman Wood also described Appellant’s demeanor during the traffic stop. *Id.* at 3-4. He described Appellant’s behavior as “erratic,” and that she had told him that

“she saw th[e] officer at the intersection prior to crossing through the intersection, stated she saw the light turn from yellow to red and knew she was not going to make it, stated her vehicle wheels were shaking and needed to get to Cumberland Farms to sell an iPad.” *Id.* at 4.

The Trial Judge asked Appellant if she wished to cross-examine Patrolman Wood. *Id.* She then asked the Trial Judge if she “could have a continuance [to get] a lawyer here?” *Id.* The Trial Judge explained that the trial was originally scheduled for February 28, 2017, but continued to May 9, 2017, she went on to state that “[it is] May 9th and the patrolman is here and [we have] already started the trial so [I am] going to deny your request for a continuance.” *Id.* The Trial Judge then asked the Appellant again if she had any questions for Patrolman Wood. *Id.* at 5. Appellant responded that she did not. *Id.*

The Trial Judge then heard Appellant’s testimony. *Id.* The Appellant testified that she was “following the traffic through a yellow light” headed towards the Cumberland Farms’ parking lot. *Id.* She explained that at that time her “wheels were shaking . . . right before [she] got [] new tires.” *Id.*

She continued, stating that once her vehicle was through the light, she parked, and then started walking toward Spring Break Tanning, which is next to the Cumberland Farms. *Id.* She testified that Patrolman Wood “thought [she] was hiding [her] fugitive boyfriend [who] was incarcerated.” *Id.* She expressed that she believed that her boyfriend was the real reason for the traffic stop based on other alleged incidents. *Id.* at 5-6. The Appellant concluded her testimony by stating that she asked for the continuance because she had several witnesses that wanted to testify on her behalf. *Id.* at 6.

After hearing all the testimony, the Trial Judge recounted the facts asserted by Patrolman Wood and then stated her findings of fact on the record. *Id.* at 7-8. The Trial Judge stated that Appellant had not “take[n] any . . . issue with any of [Patrolman Wood’s] testimony, nor did [the Trial Judge] hear any testimony [from Appellant] that rebutted the testimony of the officer.” *Id.* at 8. The Trial Judge concluded “that, after trial, the Town has proved by clear and convincing evidence that [Appellant] is guilty of the violation of [§] 31-13-4, obedience to devices.” *Id.*

Appellant subsequently filed this timely appeal. Forthwith is this Panel’s decision.

## II

### 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 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.

### III

#### Analysis

On appeal, Appellant argues that the Trial Judge's decision is "[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Sec. 31-41.1-8(f)(5). Specifically, Appellant argues that Patrolman Wood fabricated his testimony that Appellant failed to stop at a red light.<sup>1</sup>

The Rhode Island Supreme Court has stated that this Appeals 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 *Janes*, 586 A.2d at 537). An Appeals Panel cannot review witness credibility as any trial judge must, since a trial judge "has had an opportunity to appraise witness demeanor and to take into account other realities that cannot be grasped from a reading of a cold record." *A. Salvati Masonry Inc. v. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017) (quoting *State v. Van Dongen*, 132 A.3d 1070, 1076 (R.I. 2016)).

In this case, the Trial Judge accepted Patrolman Wood's testimony as it presented uncontradicted evidence. (Tr. at 8.) The record reveals that Patrolman Wood testified that Appellant's vehicle proceeded through an intersection while the traffic control device signaled a red light. *Id.* at 3. After weighing both witnesses' testimony, the Trial Judge relied on Patrolman Wood's testimony and the fact that Appellant did not offer any contradictory evidence, in deciding that Appellant committed the charged violation. *Id.* at 8. As this Panel "lacks the authority to assess witness credibility," it will not disturb the Trial Judge's

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<sup>1</sup> Appellant accuses the Bristol Police Department of several instances of harassment. However, this accusation is not within the jurisdiction of the Rhode Island Traffic Tribunal. Further, the accusations were unsupported by evidence and of no consequence to this appeal. Therefore, Appellant's argument will not be addressed in this Panel's decision.

determinations regarding the veracity of a witness' testimony. *See Link*, 633 A.2d at 1348 (citing *Janes*, 586 A.2d at 537); *A. Salvati Masonry Inc.*, 151 A.3d at 749 (quoting *Van Dongen*, 132 A.3d at 1076). Thus this Panel concludes that the Trial Judge's decision is not "clearly erroneous," but instead supported by legally competent evidence. Sec. 31-41.1-8(f)(5).

#### IV

#### 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 is not "[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Sec. 31-41.1-8(f)(5). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.

ENTERED:

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Associate Judge Edward C. Parker

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Magistrate Erika Kruse Weller

DATE: \_\_\_\_\_

Note: Chief Magistrate William R. Guglietta participated in this Decision but was no longer a member of this Court at the time this Decision was issued.