

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. T14-0060
14001508531-532**

RAMEL SHAW

DECISION

PER CURIAM: Before this Panel on March 18, 2015—Magistrate Goulart (Chair), Chief Magistrate Guglietta, and Magistrate Noonan, sitting—is Ramel Shaw’s (Appellant) appeal from a decision of Administrative Magistrate DiSandro III (Trial Magistrate), sustaining the charged violations of G.L. 1956 § 31-15-11, “Laned roadways” and G.L. 1956 § 31-14-1, “Reasonable and prudent speeds.”¹ The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On March 14, 2014, Trooper Kane of the Rhode Island State Police Department (Trooper) charged Appellant with speeding, a laned roadway violation, a turn signal violation, following too closely, and failure to maintain control. The Appellant contested the charges, and the matter proceeded to trial on October 22, 2014.

At trial, Appellant’s counsel waived Appellant’s presence. (Tr. at 1.) Subsequently, the Trooper testified that on the morning of March 14, 2014, he responded to a motor vehicle accident in Providence on Route 195 West. *Id.* at 2. When he arrived at the scene, a witness

¹ G.L. 1956 § 31-14-1, “Reasonable and prudent speeds,” was referred to at trial as “failure to maintain control.”

explained to the Trooper that the Appellant's vehicle was operating at a high rate of speed, and attempted to change lanes from the right to the left. Id. The witness told the Trooper that as the vehicle attempted to change lanes, the Appellant "hit the vehicle he was trying to get in front of [and] he spun uncontrollably to the left, and then again clockwise." Id. Subsequently, the Appellant "passed from the left to the right, hit a guardrail head on. . . [and] went up and over the guardrail." Id. at 2-3. The Trooper observed the tire track, and stated that "it began approximately 20 feet after the guardrail; the vehicle left the ground, and re-hit the ground approximately 20 feet after it became [] airborne; crossed the exit ramp. . . ; went across the lane of travel cutting off . . . vehicles and hit a jersey barrier head on." Id. at 3. The Trooper stated that when he arrived at the scene, Appellant told the Trooper he was having trouble breathing, and had been hit by another vehicle. Id. at 3-4. The Trooper testified that in his professional opinion, Appellant "tried switching from the right to the left, clipped the other vehicle, lost control slightly, over directed, went clockwise, and then off the highway." Id. at 5.

Thereafter, Ms. Katherine Wilson, a witness to the accident, testified that she was on the exit ramp when she observed Appellant's white SUV pass her driving "very fast." Id. The SUV then made a quick lane switch from right to left, and the back driver's side of the SUV hit the front end of the car in the left lane. Id. Ms. Wilson stated that she lost sight of the car until she was on the exit ramp, and then saw the SUV "bolt over the guardrail." Id.

Subsequently, Appellant's counsel argued that the violations for following too closely and speeding should be dismissed. Id. at 6. Counsel stated that there was no testimony on the record to support either violation. Id. However, Appellant's counsel conceded the laned roadway violation stating, "You can reasonably find him responsible for that Judge." Id.

After hearing the testimony presented, the Trial Magistrate found the Trooper's testimony credible. Id. at 7. The Trial Magistrate found that based on the Trooper's investigation at the scene of the accident, the Trooper determined that Appellant's vehicle swerved from lane to lane and was operating at a reported high rate of speed. Id. The accident occurred when Appellant switched from the right lane to the left lane. Id. at 7-8. The Appellant's vehicle spun clockwise, and went over the guardrail. Id. at 8. The Trial Magistrate noted that the Trooper spoke with three witnesses as well as the Appellant. Id. Subsequently, the Trial Magistrate found there was not enough testimony to support a speeding violation, a turn signal violation, or a violation for following too closely. Id. Thus, Appellant was found not guilty as to those charges. Id.

The Trial Magistrate sustained the laned roadway violation based on counsel's stipulation and the testimony presented at trial. Id. The Trial Magistrate also sustained the violation for failure to maintain control based on the evidence that Appellant failed to regulate his speed to avoid striking other objects. Id. Aggrieved by the Trial Magistrate's decision, Appellant filed the instant 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

I

Notice

On appeal, Appellant contends that the Trial Magistrate’s decision to sustain the laned roadway violation was made upon unlawful procedure, and was not supported by reliable, probative, and substantial evidence on the record. Specifically, Appellant avers that his counsel was unaware of the laned roadway charge, and the information should have been presented to

counsel at discovery. Furthermore, Appellant argues that there was not “clear and convincing” evidence of the violation.

The Rhode Island Traffic Tribunal Rules of Procedure require the defendant to receive “[a] summons which provides the defendant and the court with adequate notice of the violation being charged [; such notice] shall be sufficient if the violation is charged by using the name given to the violation by statute.” Traffic Trib. R. P. 3(d). Here, the Appellant received a summons listing the laned roadway violation and was arraigned in the matter. Thus, Appellant was sufficiently notified of the violation.

II

Laned Roadway Violation and Failure to Maintain Control

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. See Link, 633 A.2d at 1348. Consequently, this Panel will not substitute its own judgment for that of the Trial Magistrate. See § 31-41.1.8 (f).

Here, Appellant’s counsel conceded that Appellant violated the laned roadway statute. See Tr. 5. Furthermore, Ms. Wilson testified that she observed Appellant’s vehicle “bolt over the guardrail.” Id. 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.” (Emphasis added.) The statute provides an exception to the general rule to allow motorists to cross over the double line in the event it is safe to do so. See id. Moreover, § 31-14-1 provides in pertinent

part that “No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. . . . In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway. . . .” Sec. 31-14-1.

The record in this case illustrates that Appellant crossed lanes dangerously when his vehicle hit another vehicle and drove over the guardrail. See id.; see also Marran, 672 A.2d at 876; Tr. at 5. Based upon Ms. Wilson’s testimony and the concession by Appellant’s counsel at trial, there is ample evidence to support the Trial Magistrate’s decision to sustain the laned roadways and failure to maintain control violations.

Conclusion

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

ENTERED:

Magistrate Alan R. Goulart (Chair)

Chief Magistrate William. R. Guglietta

Magistrate William T. Noonan

DATE: _____