STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT | **RHODE ISLAND TRAFFIC TRIBUNAL**

STATE OF RHODE ISLAND :
:
v. : **C.A. No. T17-0005**
: **16503501586**
WAYNE EVERETT :

DECISION

PER CURIAM: Before this Panel on May 31, 2017—Magistrate Goulart (Chair), Magistrate Abbate, and Magistrate Kruse Weller, sitting—is Wayne Everett's (Appellant) appeal from a decision of Magistrate Domenic A. DiSandro, III (Trial Magistrate) of the Rhode Island Traffic Tribunal, denying his Motion to Transfer and sustaining the charged violations of G.L. 1956 § 31-22-22(g), "No seat belt—operator" and § 31-10-27, "License to be carried and exhibited on demand." The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On November 26, 2016, South Kingstown Patrolman Norman Jeff Sugrue (Patrolman Sugrue) cited Appellant[1] for (1) driving without a seatbelt in violation of § 31-22-22(g); (2) operating a motor vehicle when registration is suspended in violation of § 31-8-2; and (3) failing to provide Patrolman Sugrue his license in violation of § 31-10-27. (Tr. at 3-4.)

[1] The Appellant has stated that his name is "Quenikon Pau Muckquashim." (Tr. at 3.) For the purposes of clarification, this Panel will address Appellant by the name reflected on his state issued driver's license, Wayne Everett.

On January 20, 2017, Appellant filed a Motion to Dismiss for lack of jurisdiction. (Def.'s Mot. to Dismiss at 1.) The Motion was scheduled for a hearing on the same day as Appellant's trial on the violations, February 13, 2017. *Id.*

At trial, Appellant refused to testify under oath. *Id.* at 6. However, Patrolman Sugrue testified that "[o]n November 26, 2016, at 8:45 a.m., [he] was posted at the Benny's parking lot on Route 108 facing northbound observing vehicles traveling southbound." *Id.* While on patrol, Patrolman Sugrue observed Appellant driving southbound without wearing a seatbelt. *Id.* Based on his observation, Patrolman Sugrue initiated a motor vehicle stop of Appellant's vehicle. *Id.*

Patrolman Sugrue stated that as he approached the vehicle, "the operator was still not wearing his seat belt. The operator presented a tribal identification and refused to answer if he had any state issued [identification] or other recognized legal name." *Id.* Patrolman Sugrue explained that he was "able to identify [the operator] as Wayne Everett [Appellant] through investigation of records." *Id.* at 7. "A check of [Appellant's] information showed that his license was valid;" however, "[h]is registration was suspended for failure to inspect." *Id.* Patrolman Sugrue then cited Appellant for the above mentioned violations. *Id.*

After Patrolman Sugrue testified, the Trial Magistrate explained to Appellant that because he refused to testify under oath, the Trial Magistrate could not "accept any testimony that [he was] presenting before the Court. So the defense of [Appellant's] case rest[ed] in total upon [his] [M]otion to [D]ismiss." *Id.* at 8. The Trial Magistrate found that Appellant was, in fact, the operator of the vehicle Patrolman Sugrue observed driving without a seatbelt. *Id.* at 8-9. The Trial Magistrate also determined that Patrolman Sugrue's testimony was credible. *Id*. at 8. Based on that testimony, the Trial Magistrate found that there was clear and convincing evidence proving each of the charged violations. *Id.* Pursuant to his findings, the Trial Magistrate

sustained Appellant's violations of § 31-22-22(g), "No seat belt—operator" and § 31-10-27, "License to be carried and exhibited on demand." *Id.* at 9. In consideration of Appellant's successful "corrective action . . . taken on the inspection," the Trial Magistrate dismissed the charged violation of § 31-8-2, "Operation of vehicle when registration canceled, suspended, or revoked" *Id.* at 9.

The Appellant subsequently filed this timely appeal, on February 23, 2017. 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*, 633 A.2d at 1348 (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 *Durfee*, 621 A.2d at 208). "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 Magistrate's decision was made (1) "[i]n violation of constitutional or statutory provisions;" (2) "[i]n excess of the statutory authority of the . . . magistrate;" and (3) "[m]ade upon unlawful procedure." *See* §§ 31-41.1-8(f)(1)-(3). Specifically, Appellant contends that the Trial Magistrate erred in finding that the South Kingstown Police Department had the authority to issue him a summons for his alleged violation, and that the Rhode Island Traffic Tribunal (the Traffic Tribunal) maintained jurisdiction over the adjudication of that summons. The Appellant also asserts that it is unconstitutional to require that he show a state issued license. *Id.* at 3.

A

Post-Trial Documents

With his Notice of Appeal, Appellant filed a document titled "Motion for Dismissal of Charges due to Lack of Jurisdiction and to Add New Evidence." Given that "'[t]he review of the

Appeals Panel is confined to a reading of the record,'" a motion to dismiss and to add new evidence is not proper before this Panel on appeal. *See Link*, 633 A.2d at 1348 (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). However, this Panel will treat the document filed on February 23, 2017, as a memorandum in support of Appellant's arguments on appeal given that the arguments asserted therein provide support for the issues raised by Appellant. Furthermore, the Rhode Island Traffic Tribunal Notice of Appeals form explicitly permits the attachment of additional pages. *See also Sch. Comm. of City of Cranston v. Bergin-Andrews*, 984 A.2d 629, 649 (R.I. 2009) (citing *Sarni v. Meloccaro*, 113 R.I. 630, 636, 324 A.2d 648, 651 (1974)) (noting that the Rhode Island Supreme Court "applies a liberal interpretation of the [rules of procedure] to 'look to substance, not labels'" when presented with improperly titled motions).

The Appellant subsequently filed a second document titled, "Motion to Transfer/Lateral to Proper Venue for Dismissal of Charges Due to Lack of Jurisdiction and to Add New Evidence," on April 7, 2017. Unlike the previously discussed document that was filed with Appellant's Notice of Appeal, the second document—filed using the Rhode Island Traffic Tribunal's Motion form—is not part of the record before this Panel as it can only be construed as a true motion seeking to introduce new legal arguments and evidence. *See* Appellant's Motion for Transfer to Proper Venue. As stated, "[t]he review of the Appeals Panel is confined to a reading of the record;" therefore, this Panel will not consider the motion filed on April 7, 2017.[2] *See Link*, 633 A.2d at 1348 (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)).

[2] It is worth noting that the arguments asserted within the motion filed on April 7, 2017, address substantially similar issues as those properly raised on appeal in this matter.

B

Subject Matter Jurisdiction

The Appellant asserts that he is a citizen of the Usquepaug Nehantick-Nahaganset Tribe and that he is a "NON-RESIDENT INHABITANT and FOREIGN NATIONAL, to the State of Rhode Island . . . and is not subject to any commercial and/or administrative obligations or regulations as imposed by the STATE OF RHODE ISLAND." (App.'s Mem. in Supp. of Arguments on Appeal at 1.) As a "foreign national" and "non-resident" inhabitant, Appellant proclaims that the Traffic Tribunal is prohibited from considering any traffic violation that he commits. *Id.* at 1-2.

Pursuant to article 10, section 1 of the Rhode Island Constitution, "[t]he judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish." Article 10, section 2 provides that "[t]he inferior courts shall have such jurisdiction as may, from time to time be prescribed by law." R.I. Const. art. X, § 2. Our Supreme Court has "broadly construed the authority of the General Assembly under this article of our constitution to enact legislation dictating the jurisdiction of the lower courts." *State v. Byrnes*, 456 A.2d 742, 744 (R.I. 1983); *see also State v. Robinson*, 972 A.2d 150, 157 (R.I. 2009) (citing *State v. Almonte*, 644 A.2d 295, 300 (R.I. 1994)) (finding that the state constitution "grants to the Legislature the authority to establish and prescribe the jurisdiction of any inferior courts").

In accordance with that authority, the General Assembly enacted § 8-8.2-2, which establishes the jurisdiction of the Traffic Tribunal, and its authority to preside over violations of state law relating to motor vehicles and traffic offenses: "Notwithstanding any inconsistent provision of law . . . all violations of state statutes relating to motor vehicles, littering and traffic

offenses, except those traffic offenses committed in places within the exclusive jurisdiction of the United States . . . shall be heard and determined by the traffic tribunal. . . ." *See* § 8-8.2-2(a). More specifically, the General Assembly—through § 8-18-3 of the State and Municipal Court Compact—granted the Traffic Tribunal and municipal courts "jurisdiction over the adjudication of matters related to violations enumerated in the following sections of the general laws. . . 31-10-27. . . 31-22-22 . . . ." *See* § 8-18-3(a). Section 8-18-3(b) explains that "jurisdiction over violations enumerated in subsection (a) shall be exercised. . . [b]y the traffic tribunal over all violations for which the summons is issued by a city or town which has not established a municipal court . . . ." *See* § 8-18-3(b)(2).

A plain reading of the aforementioned statutes reveals that the Traffic Tribunal validly exercised its jurisdiction over the adjudication of Appellant's summons for the charged violations of §§ 31-10-27 and 31-22-22(g).[3] *See* §§ 8-8.2-2, 8-18-3; *see also State v. Robinson*, 972 A.2d at 157. It is clear that the General Assembly enacted these statutes for the purpose of granting the Traffic Tribunal jurisdiction to adjudicate "all violations of state statutes relating to motor vehicles"—including the violations charged against Appellant—and that the General Assembly had the proper authority to do so pursuant to the Rhode Island Constitution. *See State v. Robinson*, 972 A.2d at 157. Therefore, this Panel finds that Appellant's argument is without merit as the Traffic Tribunal has subject matter jurisdiction in this case. See § 8-18-3.

Furthermore, Appellant's argument—that he is a citizen of the Usquepaug Nehantick-Nahaganset Tribe and, therefore, not subject to any obligations or regulations imposed by the state—is also unavailing. The United States Supreme Court has expressly held that "[a]bsent

[3] "It is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *D'Amico v. Johnston Partners*, 866 A.2d 1222, 1224 (R.I. 2005) (citing *Webster v. Perrotta*, 774 A.2d 68, 75 (R.I. 2001)).

express federal law to the contrary, [Native Americans] going beyond reservation boundaries have generally been held subject to non-discriminatory state law otherwise applicable to all citizens of the State." *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148–49 (1973) (citing *Puyallup Tribe v. Department of Game*, 391 U.S. 392, 398 (1968)) (citations omitted). The statute that Appellant was charged with violating explicitly states, in relevant part, "[a]ny person who is an operator of a motor vehicle shall be properly wearing a safety belt and/or shoulder harness system . . . while the vehicle is in operation on any of the roadways, streets, or highways of this state." Sec. 31-22-22(g)(1); *see also* § 31-12-1 ("The provisions of chapters 12-27 of this title relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways and on all state, city or town owned public property . . . .")

Based upon a review of the record, it is undisputed that Appellant was not on tribal land at the time Officer Sugrue observed Appellant operating his vehicle without a seatbelt on Route 108 in South Kingstown. (Tr. at 6.) In finding that Appellant was travelling on a "roadway[], street[], or highway[] of this state" when the violation occurred, it is without question that Appellant must comply with §§ 31-22-22(g) and 31-10-27 as they are state laws otherwise applicable to all citizens of the State. *See* Tr. at 6; *Mescalero Apache Tribe*, 411 U.S. at 148–49.

In finding that the Traffic Tribunal has subject matter jurisdiction over the adjudication of the charged traffic violations, and that Appellant is subject to the laws of this state while operating a motor vehicle on state roadways, this Panel concludes that that the Trial Magistrate's decision was not "[i]n violation of constitutional or statutory provisions;" "[i]n excess of the statutory authority" or "upon unlawful procedure." *See* § 31-41.1-8.

C

Personal Jurisdiction

Additionally, Appellant asserts that this Panel should dismiss his violation of § 31-10-27, "License to be carried and exhibited on demand," claiming that the statute is unlawful. The Appellant relies on a case decided by the Virginia Supreme Court in 1930 to support the proposition that "no license is necessary for normal use of an automobile on common ways." *Thompson v. Smith*, 155 Va. 367, 377, 154 S.E. 579, 583 (1930)) (citations omitted).

However, Appellant's argument is misguided as it overlooks controlling Rhode Island precedent.[4] The Rhode Island Supreme Court has made it abundantly clear that a "defendant does not have a fundamental right to unregulated travel by automobile within this state." *State v. Garvin*, 945 A.2d 821, 823 (R.I. 2008). Our Supreme Court "has long recognized that 'the right to use the public highways for travel by motor vehicles is one which properly can be regulated by the [L]egislature in the valid exercise of the police power of the state.'" *Id.* at 823-24 (quoting *Berberian v. Lussier*, 87 R.I. 226, 231-32, 139 A.2d 869, 872 (1958)). The Rhode Island Supreme Court has also stated that § 31-10-27 "does bear a substantial relationship to the safety and welfare of the traveling public and that therefore, its enactment [constitutes] a valid exercise of the police power of the state." *State v. Campbell*, 95 R.I. 370, 373, 187 A.2d 543, 546 (1963).

Moreover, in *State v. Garvin*, the court further found that the defendant's status as a "sovereign citizen" did not preclude him from obeying laws intended to maintain public safety

[4] Aside from the fact that Appellant's argument relies on persuasive authority at best, this Panel pauses to note that Appellant's interpretation of *Thompson v. Smith* misconstrues the Virginia court's holding by not considering the court's decision in its entirety. 155 Va. at 377-78, 154 S.E. at 583 ("The exercise of such a common right, [traveling on public highways,] the city may, under its police power, regulate in the interest of the public safety and welfare.")

on highways. *See Garvin, 945 A.2d 824* (citing *Riley v. R.I. Dept. of Environ. Management*, 941 A.2d 198, 206 (R.I. 2008)). By applying the "rational relationship" test, the court determined that the state law, prohibiting unlicensed drivers from operating a motor vehicle within the State of Rhode Island, was rationally related to the legitimate state interest of maintaining public safety on highways. *Id.* at 824. Accordingly, the court concluded that the defendant in *Garvin* was required to obey the state law while driving thereupon. *Id.*

Based on current Rhode Island law, it is evident that a motorist traveling on public highways in this state must carry with them a license and must produce that license to a police officer upon request. *See* § 31-10-27; *see also Garvin*, 945 A.2d at 823. It is without question that both § 31-22-22(g), driving without a seatbelt, and § 31-10-27, carrying a license, are rationally related to the legitimate interest of maintaining public safety on highways. In enacting § 31-22-22(g), the Legislature intended to reduce accident injuries. Similarly, requiring drivers to carry a license aids in ensuring that those who travel on highways within the state are properly licensed to do so. *See* § 31-10-27. As there is a rational relationship between the state laws and a legitimate state interest, the state may rightfully subject those operating a motor vehicle on a state highway, such as Appellant, to the state laws. Therefore, this Panel finds that the Trial Magistrate's decision was not clearly erroneous or made in violation of constitutional or statutory provisions. *See* §§ 31-41.1-8(f)(1), (3).

IV

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 not made "[i]n violation of constitutional or statutory provisions;" "[i]n excess of the statutory authority of the . . . magistrate;" or "[m]ade upon unlawful procedure." *See* §§ 31-41.1-8(f)(1)-(3). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violations are sustained.

ENTERED:

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Magistrate Alan R. Goulart (Chair)

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Magistrate Joseph A. Abbate

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Magistrate Erika Kruse Weller

DATE: ______________