

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF BARRINGTON

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:
:

v.

C.A. No. T13-0053
13101500567

MARCUS MONROE

DECISION

PER CURIAM: Before this Panel on September 18, 2013—Chief Magistrate Guglietta (Chair, presiding), Magistrate DiSandro III, and Magistrate Abbate, sitting—is Marcus Monroe’s (Appellant) appeal from a decision of Judge Almeida, 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.

Facts and Travel

On May 17, 2013, Officer Greg Prutrose of the Barrington Police Department (Officer) charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on August 15, 2013.

At trial, the Officer testified that on May 17, 2013, he was traveling on Federal Road when he observed the violation with a clear and unobstructed view. (Tr. at 1.) Specifically, the Officer testified that he observed the Appellant’s vehicle proceed through a red light at the intersection of County Road and Federal Road. Id. The Officer then explained that he saw the Appellant’s vehicle traveling north and that the Appellant’s vehicle was south of the stop line when the light turned red. (Tr. at 2.) The Officer also testified that the Appellant’s vehicle was right at the stop line, not within the intersection, and made no attempt to slow down. Id. After

he approached the vehicle, the Officer indicated that he received inconsistent statements from the Appellant after he approached the Appellant's vehicle. Id. Initially, the Appellant asked the Officer, "what light he went through" and then altered his response—by stating, "he did not go through a red light." Id.

The Appellant testified that the light was green at the time he approached the intersection. (Tr. at 3.) Furthermore, the Appellant testified that he was about five car-lengths from the intersection when he last saw that the light was green. Id. In addition, the Appellant stated that the Officer was traveling south, the Officer made a left turn at the intersection, and he slowed his vehicle in order to avoid a collision with the Officer's vehicle. Id. The Appellant indicated that the light was yellow as he traveled through the intersection and at no time did the light turn red. Id.

After further testimony, the trial judge determined that she found the Officer's testimony to be credible. (Tr. at 9.) The trial judge noted that the Appellant had testified that the light was yellow at the time he crossed into the intersection. Id. However, the trial judge emphasized that the Officer's testimony was completely different, indicating that the light was red and that the Officer also observed that the Appellant made no attempt to slow down. Id. Accordingly, the trial judge sustained the charged. Id. The 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

Appellant disputes the veracity of the Officer's testimony and claims that the trial judge's decision to credit the Officer's testimony over that of the Appellant's testimony was an abuse of

discretion. Specifically, the Appellant alleges the light was green at the time he approached the intersection. (Tr. at 3.)

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)). “[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)). “The review of the [this Panel] is confined to a reading of the record to determine whether the judge's decision is supported by legally competent evidence or is affected by an error of law. Section 31-43-4(6).” Id.

After listening to the testimony, the trial judge determined that the Officer’s testimony was not only credible, but the testimony was also sufficient to sustain the charged violation. (Tr. at 9.) In her decision, the trial judge credited the Officer’s testimony that he observed the Appellant’s vehicle proceed through a red light at the intersection of County Road and Federal Road. (Tr. at 1.) Furthermore, the trial judge found that the Officer had testified credibly when he described that he saw the Appellant’s vehicle traveling north and that the Appellant’s vehicle was south of the stop line when the light turned red. (Tr. at 2.) As the members of this Panel did not have an opportunity to view the live trial testimony of the Officer or Appellant, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the Officer 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.

Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge did not abuse her discretion. Her 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. This Panel is also satisfied that the trial judge did not abuse her discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violation sustained.

ENTERED:

Chief Magistrate William R. Guglietta

Magistrate Domenic A. DiSandro, III

Magistrate Joseph A. Abbate

DATE: _____