

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF BRISTOL

v.

ALLEN P. CARPENTER

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C.A. No. M11-0023

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on February 22, 2012—Magistrate Goulart (Chair, presiding), Judge Parker, and Judge Ciullo sitting—is Allen Carpenter’s (Appellant) appeal from a decision of Judge Howlett (trial judge), sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On August 27, 2011, Officer Justin Lisi (Officer Lisi) of the Bristol Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on November 9, 2011.

On the day the Appellant was cited, Officer Lisi was stationed at the base of the Mount Hope Bridge. While stationed at the bridge, Officer Lisi observed the Appellant traveling northbound—towards Officer Lisi—on the Mt. Hope Bridge. (Tr. at 1.) Officer Lisi’s patrol car was equipped with a radar unit capable of determining the speed of other vehicles. Officer Lisi’s radar unit, which was calibrated both internally and externally, determined that the Appellant was traveling fifty-four (54) miles per hour (mph) in a thirty (30) mph zone. Id. Officer Lisi

testified that he was trained in the use of radar units at the Rhode Island Municipal Police Academy. Id.

Thereafter, Officer Lisi pursued the Appellant, and ultimately conducted a traffic stop of the Appellant's vehicle. (Tr. at 1.) The Appellant informed Officer Lisi that he was traveling to Bristol to bring his passenger Samantha home because her parents had filed a missing person report. At the conclusion of the stop, the Appellant was cited for the aforementioned violation.

At trial, the Appellant argued that he did not see the sign displaying the speed limit because the trees were blocking it. Appellant also argued that the traffic stop was the result of entrapment by the Bristol Police Department because the department knew the Appellant would be traveling to Bristol to bring Samantha home. Appellant also argues that he was targeted by the Bristol Police Department and the stop conducted by Officer Lisi was unwarranted. The trial judge rejected the Appellant's arguments as irrelevant. (Tr. at 2.)

At the conclusion of the testimony, the trial judge sustained the violation. The trial judge determined that Officer Lisi had the requisite training to operate the radar unit. The trial judge also determined that the Appellant was traveling at a speed greater than the posted limit of thirty (30) mph. The trial judge assessed a fine of ninety-five (95) dollars. The Appellant timely filed this Appeal.

### **Standard of Review**

Pursuant to G.L. 1956 § 8-18-9, any person may appeal an adverse decision from a municipal court and seek review from this Panel pursuant to the procedures set forth in § 31-41.1-8. Section 31-41.1-8 states that 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 argues that the trial judge's decision is erroneous in view of the reliable, probative, and substantial evidence on the record. Appellant contends that Officer Lisi's trial testimony fails to satisfy the prevailing standard for the admissibility of speed readings set forth in State v. Sprague, 113 R.I. 351, 322 A.2d 36 (1974). Furthermore, the Appellant argues—as he did at trial—that he was being targeted by the Bristol Police Department for bringing his passenger home after her parents filed a missing person report.

In Sprague, our Supreme Court held that a radar speed reading is admissible into evidence upon a showing that “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method,” and upon “testimony setting forth [the Patrolman's] training and experience in the use of a radar unit.” Sprague, 113 R.I. at 357, 322 A.2d at 39-40. Here, the requirements of Sprague were properly set forth during Appellant's trial. Officer Lisi explained that the radar unit had been calibrated both internally and externally, and he testified that he possessed “training and experience in the use of a radar unit.” Sprague, 113 R.I. at 357, 322 A.2d at 40.

Having reviewed the record in its entirety, it is clear that there was sufficient evidence presented by Officer Lisi to satisfy the standards set forth by our Supreme Court in Sprague to properly introduce evidence of the speed of Appellant's vehicle. Based on the testimony provided by Officer Lisi to the trial judge, the members of this Panel find that the trial judge's decision is not erroneous in view of reliable, probative, and substantial evidence on the record.

Finally, this Panel holds—as did the trial judge—that Appellant's argument about being targeted by the Bristol Police Department is without merit. The issue before the trial judge was whether the Appellant had violated § 31-14-2. The elements necessary to sustain the charge are

discussed supra. Any complaints the Appellant may have regarding him being targeted had no relevance to the issue before the trial judge. See R.I. R. Ev. 401 (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.").

### **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 erroneous in view of the reliable, probative, and substantial evidence on the record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

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