

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF COVENTRY

:
:
:
:
:

v.

**C.A. No. M17-0007
16201501398**

MICHAEL BAIRD

DECISION

PER CURIAM: Before this Panel on July 19, 2017—Chief Magistrate Guglietta (Chair), Associate Judge Parker, and Magistrate Kruse Weller, sitting—is Michael Baird’s (Appellant) appeal from a decision of Judge Arthur G. Capaldi (Trial Judge) of the Coventry Municipal Court, sustaining the charged violation of G.L. 1956 § 31-20-9, “Obedience to stop signs.” The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On October 19, 2016, a police officer from the Coventry Police Department¹ issued Appellant the aforementioned citation for failing to stop at the stop sign located at the intersection of Route 102 and Route 117 in the Town of Coventry. The Appellant contested the violation, and the matter proceeded to trial on February 14, 2017.

At trial, the officer testified that he was observing traffic at the intersection of Routes 102 and 117 when he observed Appellant’s vehicle travelling straight on Route 117. (Tr. at 2.) The

¹ The Coventry police officer that testified at trial was not identified by name on the record. Due to what appears to be a procedural oversight, the police officer will be referred to as “the officer.”

officer explained that he had a clear view of the stop sign at the intersection, which was located less than 150 feet away. *Id.* at 4. As Appellant’s vehicle travelled through the intersection, the vehicle “stopped in the middle of [Route] 102, when [Appellant] saw [the officer’s] vehicle.” *Id.* at 4-5. When the Trial Judge asked if Appellant’s vehicle had passed the stop sign before stopping, the officer replied “[y]eah, [Appellant stopped] in the middle of the highway. *Id.* at 5.

The Appellant also testified at trial. *Id.* at 3. During his testimony, Appellant explained that he had “stopped at the stop sign coming from [Route] 117... where the white line is.” *Id.* The Appellant stated “[i]f you look to the left-hand side, at the white line, where you stop, you can’t actually see... because of the tree growth and the signs that are on the corner.” *Id.* After stopping at the white line, Appellant “pulled out a little farther in order to observe the traffic coming from the left-hand side.” *Id.* at 3-4. Once Appellant saw the officer, he continued through the intersection. *Id.* The Appellant noted that during the motor vehicle stop, Appellant told the officer that he had “stopped twice at the stop sign.” *Id.*

After hearing testimony from both the officer and Appellant, the Trial Judge found that there was clear and convincing evidence of the violation based on “the police’s position” and “his clear view of the sign in the area.” *Id.* at 5-6. The Trial Judge then issued his decision, sustaining the violation. *Id.* at 6. Thereafter, Appellant filed a 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.”

When 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

Before this Panel, Appellant asserts that the Trial Judge's decision to sustain the violation was in violation of constitutional or statutory provisions, made upon unlawful procedure, and clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant argues that the Trial Judge did not give Appellant a proper opportunity to testify; and, that the evidence shows that Appellant did stop at the stop sign.

A

Due Process

To begin, Appellant raises a procedural due process argument by arguing that he was not afforded a proper opportunity to testify. The Sixth Amendment to the United States Constitution as incorporated through the Fourteenth Amendment, as well as Article 1, Section 10 of the Rhode Island Constitution, guarantees a defendant's right to a fair trial. *See* U.S. CONST. amend. VI; R.I. CONST. art. 1, § 10. The Rhode Island Supreme Court has held that the right to a hearing is the "opportunity to be heard at a meaningful time and in a meaningful manner." *State v. Oliveira*, 774 A.2d 893, 923 (R.I. 2001). The constitutional guarantee of procedural due process assures that there will be fair and adequate legal proceedings. *State v. Germane*, 971 A.2d 555, 574 (R.I. 2009). To ensure fairness and the adequacy of legal proceedings, procedural due process requires that a defendant be provided: (1) notice of the hearing and the alleged violation; (2) an opportunity to be heard by an impartial trial judge; (3) an opportunity to present evidence; (4) and the right to confront and cross-examine witnesses. *State v. Pompey*, 934 A.2d 210, 214 (R.I. 2007); *see also State v. Lomba*, 37 A.3d 615, 621 (R.I. 2012) (recognizing that a defendant must have a "full opportunity to establish the best and fullest defense available to him [or her]");

State v. Doctor, 690 A.2d 321, 327 (R.I. 1997) (holding that the ability of a defendant to “meaningfully cross-examine the state’s witnesses is ‘an essential element’” of the due process right to present a defense).

In the instant matter, Appellant does not dispute that he received proper notice of the violation. *See* Summons No. 16201501398. The record reveals that Appellant also had the opportunity to cross-examine the officer and present a defense. (Tr. at 3-4.) At trial, the Trial Judge explicitly asked Appellant, “[d]o you have any questions for the police officer?” *Id.* at 3. However, instead of asking the officer questions, Appellant began presenting his defense:

“I was stopped at the stop sign coming from [Route] 117 down on the west end of Coventry, and I got to the intersection where the white line is [A]t the white line, where you stop, you can’t actually see, physically because of the tree growth and the signs that are on the corner, so I pulled out a little farther in order to observe the traffic coming from the left side. In order to do that, when I pulled a little bit farther and I stepped on the brakes, I looked to the left, I saw the vehicle and the officer parked behind the sign I then commenced through the intersection.” *Id.* at 3-4.

After clarifying the officer’s location at the time the officer observed Appellant’s vehicle, the Trial Judge again asked Appellant, “[d]o you have any further questions?” *Id.* at 5. The Appellant responded, “No your Honor, I just want to recap,” which the Trial Judge allowed Appellant to do. *Id.*

Based on a review of the record, this Panel finds that Appellant was given an opportunity to testify at trial and to be heard in a meaningful manner. *See Pompey*, 934 A.2d at 214; *Oliveira*, 774 A.2d at 923. The Trial Judge provided Appellant two opportunities to question the officer, and allowed Appellant two opportunities to present his defense. *See* Tr. at 3-5. Accordingly, the Trial Judge’s decision was not made in violation of constitutional or statutory provisions, or upon unlawful procedure as Appellant’s procedural due process rights were not violated.

B

Witness Credibility

The Appellant also contends that the Trial Judge erred by improperly crediting the officer's testimony in his decision. It is well-established 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 a trial judge may, 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)).

Here, the Trial Judge based his decision on the officer's testimony regarding "[the officer's] position, [and] his clear view of the sign in the area" to "find clear and convincing evidence of the violation." (Tr. at 5-6.) Even though Appellant's contention is that he did stop at the sign, the officer's testimony was that Appellant "stopped in the middle of [Route] 102, when [Appellant] saw [the officer's] vehicle." *Id.* at 4-5. In light of the fact that the record contains competent evidence to support the Trial Judge's decision, 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 *Janes*, 586 A.2d at 537). Therefore, this Panel finds that the Trial Judge's decision was not clearly erroneous in view of the whole record.

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 was not in violation of constitutional or statutory provisions, made upon unlawful procedure, or clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. The substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, the charged violation is sustained.

ENTERED:

Judge Edward C. Parker

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.