STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, S.C. **RHODE ISLAND TRAFFIC TRIBUNAL**

TOWN OF CUMBERLAND	:	
	:	
v.	:	**C.A. No. M08-0016**
	:	
FREDDIE RODRIGUEZ	:	

DECISION

PER CURIAM: Before this Panel on October 22, 2008, Chief Magistrate Guglietta (Chair), Judge Almeida, and Magistrate Noonan sitting, is Freddie Rodriguez's (Appellant) appeal from a decision of the Cumberland Municipal Court, sustaining the charged violation of G.L. 1956 § 31-14-2, "Prima facie limits." The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On April 25, 2008, Appellant was charged with violating the aforementioned motor vehicle offense by an officer of the Cumberland Police Department. The Appellant contested the charge, and the matter proceeded to trial.

At trial in the Cumberland Municipal Court, Appellant sought dismissal of the charged violation of § 31-14-2 pursuant to G.L. 1956 § 31-41.1-7, our State's "good driving statute." (Tr. at 1.) The Appellant argued that he was entitled to dismissal pursuant to § 31-41.1-7 because he "has had a motor vehicle operator's license for more than three years," and the speeding violation was "his . . . first [traffic] violation[] within the preceding three years." Section 31-41.1-7. Although Appellant "submit[tted] . . . proper proof that [he] ha[d] not been issued any other "moving" traffic violation within the past three years," id., the trial judge refused to dismiss the charged violation based

upon Appellant's good driving record because he had been cited for a "non-moving" inspection sticker violation within the past three years. (Tr. at 3.)

Following the trial, the trial judge sustained the charged violation of § 31-14-2. The Appellant has filed a timely appeal of the trial judge's decision. Forthwith is this Panel's decision.

Standard of Review

Pursuant to § 8-18-9, "[a]ny person desiring to appeal from an adverse decision of a municipal court . . . may seek review thereof pursuant to the procedures set forth in § 31-41.1-8." Section 31-41.1-8 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:
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> 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'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 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 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 conclusions on appeal. See Janes, 586 A.2d at 537.

Analysis

On appeal, Appellant argues that the trial judge's decision is affected by error of law and warrants reversal. Specifically, Appellant asserts that the trial judge's decision to sustain the charged violation of § 31-14-2 was based on an erroneous application of § 31-41.1-7, Rhode Island's "good driving statute." It is Appellant's contention that he has not been issued any other traffic violations within the past three years because his "non-moving" inspection sticker violation does not constitute a "traffic violation" within the meaning of § 31-41.1-7. Under his construction of the statutory language, Appellant maintains that he was entitled to have the charged violation dismissed based upon his good driving record.

The issue before this Panel is one of first impression. As such, this Panel will use the principles of statutory construction to establish the precise meaning of "traffic violation," as contemplated by § 31-41.1-7. This Panel's "responsibility in interpreting [§ 31-41.1-7] is to determine and effectuate the Legislature's intent and to attribute to the

enactment the meaning most consistent with its policies or obvious purposes." Brennan v. Kirby, 529 A.2d 633, 637 (R.I. 1987) (citing Gryguc v. Bendick, 510 A.2d 937, 939 (R.I. 1986)). We are bound to "effectuate that intent whenever it is lawful and within legislative competence." Vaudreuil v. Nelson Engineering and Const. Co., Inc., 121 R.I. 418, 420, 399 A.2d 1220, 1222 (1979) (citing Narragansett Racing Assoc. v. Norberg, 112 R.I. 791, 793-94, 316 A.2d 334, 335 (1974)). If this Panel concludes that the language of § 31-41.1-7 "is plain and unambiguous and expresses a single, definite, and sensible meaning, that meaning [will be] presumed to be the Legislature's intended meaning and the statute [will be] interpreted literally." Rhode Island Chamber of Commerce v. Hackett, 122 R.I. 686, 411 A.2d 300 (1980). In such a case, "there is no room for statutory construction or extension." O'Neil v. Code Com'n for Occupational Safety and Health, 534 A.2d 606, 608 (1987).

"While it is true that the legislative intent is to be found primarily in the language of a statute . . ., yet where the language is ambiguous or uncertain, the court . . .may take into consideration certain extrinsic matters which tend to throw some light on the legislative intent." Doherty v. Town Council of Town of South Kingstown, 61 R.I. 248, 200 A. 964, 968 (1938). Here, the language of our "good driving statute" is not plain and unambiguous and does not, on its face, lend itself to a single, definite, and sensible meaning. To date, there has been considerable debate on whether the statute applies to both "moving" traffic violations and "non-moving" violations of motor vehicle statutes. Accordingly, this Panel will read § 31-41.1-7 in conjunction with other statutes in order to divine the intent of the General Assembly.

First, § 8-8.2-2 of the General Laws defines the jurisdiction of the Traffic Tribunal. It reads, in relevant part: "Notwithstanding any inconsistent provision of law, all . . . violations of state statutes relating to motor vehicles, . . . and traffic offenses, . . . shall be heard and determined by the traffic tribunal pursuant to the regulations promulgated by the chief magistrate of the traffic tribunal . . . ." (Emphasis added.) Based on the plain and clear language of § 8-8.2-2, the General Assembly has conferred jurisdiction upon the Traffic Tribunal to adjudicate "traffic offenses." In determining what a "traffic offense" is, we seek guidance from the definition of "traffic" in Black's Law Dictionary. Black's defines "traffic" as "[p]eople or things being transported along a route," or "[t]he passing to and fro of people, animals, vehicles, and vessels along a transportation route." Black's Law Dictionary (8th Ed. 2004). Accordingly, this definition will guide this Panel's interpretation of our "good driving statute," § 31-41.1-7.

Based on the foregoing, this Panel is satisfied that § 31-41.1-7 does not reach "non-moving" motor vehicle violations. Section 31-41.1-7 reads, in pertinent part

> Any person who has had a motor vehicle operator's license for more than three (3) years, and who has been issued traffic violations which are his or her first violations within the preceding three (3) years, may request a hearing seeking a dismissal of the violations based upon the operator's good driving record. (Emphasis added.)

It is a well-established tenet of statutory interpretation that the General Assembly is "presumed to know the state of existing law when it enacts or amends a statute." Providence Journal Co. v. Rodgers, 711 A.2d 1131, 1134 (R.I. 1998) (quoting Narragansett Food Services, Inc. v. Rhode Island Dept. of Labor, 420 A.2d 805, 808 (R.I. 1980)). It is equally well-established that this Panel cannot "interpret a statute to include a matter omitted unless the clear purpose of the legislation would fail without the

implication." Retirement Bd. of Employees' Retirement System of State v. DiPrete, 845 A.2d 270, 297 (R.I. 2004) (quoting State v. Feng, 421 A.2d 1258, 1264 (R.I. 1980)).

From these rules of statutory construction, we conclude that the definition of "traffic offenses" includes only "moving" violations. The General Assembly certainly could have drafted the "good driving statute" to reach "non-moving" violations of motor vehicle statutes or amended the statute to have this effect; to date, it has chosen not to do so. Were this Panel to apply § 31-41.1-7 to "non-moving" violations of state statutes relating to motor vehicles, it would amount to an impermissible redrafting of the statute. See Moretti v. Division of Intoxicating Beverages, 62 R.I. 281, 290, 5 A.2d 288 (1939) ("It is [Supreme Court's] duty to construe the statute, not to redraft it.") and Kingsley v. Miller, 120 R.I. 372, 376, 388 A.2d 357, 360 (1978) ("[T]he judicial branch has no authority to amend or extend an act of the Legislature . . . .").

This Panel concludes that the trial judge's reliance on G.L. 1956 § 31-41.1-4's "schedule of violations" to find that Appellant's "non-moving" inspection sticker violation constituted a "traffic violation" for the purposes of the "good driving statute" is misplaced. While it is true that § 31-41.1-4 outlines the monetary penalty for an inspection sticker violation, this statutory schedule also includes penalties for non-moving violations and non-traffic violations. To draw the conclusion that a violation constitutes a "traffic offense" merely because its fine is listed in § 31-41.1-4 extends the legal value of the "schedule" beyond its purpose. In addition, such an interpretation of the "violations schedule" is at odds with the fact that § 8-8.2-2 and § 31-41.1-7, when read together, make clear that "moving" violations and "non-moving" violations are distinct and, as such, are to be treated differently for the purpose of dismissing a charged

violation based upon an individual's good driving record. Indeed, were this Panel to adopt the trial judge's interpretation of § 31-41.1-4 and equate "moving" and "non-moving" violations, we would act in excess of the statutory authority conferred upon this Tribunal by § 31-41.1-7. It is the opinion of this Panel that the General Assembly saw fit to bring only "moving" violations within the ambit of the "good driving statute"; accordingly, we refuse to broaden the scope of the statute now. Based on the foregoing, the trial judge's decision must be reversed.

Conclusion

Upon a review of the entire record, this Panel concludes that the trial judge's decision was affected by error of law. Substantial rights of Appellant have been prejudiced. Accordingly, Appellant's appeal is granted, and the charge against him dismissed.