

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**CRANSTON, RITT**

**RHODE ISLAND TRAFFIC TRIBUNAL**

**TOWN OF CUMBERLAND**

v.

**RUSEK WOJCIECH**

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**C.A. No. T15-0045  
15403500750**

**DECISION**

**PER CURIAM:** Before this Panel on February 3, 2016—Magistrate Goulart (Chair), Magistrate Noonan, and Judge Almeida, sitting—is Rusek Wojciech’s (Appellant) appeal from a decision of Administrative Magistrate DiSandro III (Trial Magistrate), sustaining the charged violations of G.L. 1956 § 31-3-1, “Operation of Unregistered Motor Vehicle” and § 31-38-4, “Inspection Sticker Required.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

**Facts and Travel**

On May 26, 2015, Officer Derek Silva of the Cumberland Police Department (Officer) charged the Appellant with the aforementioned violations of the motor vehicle code. The Appellant contested the charges, and the matter proceeded to trial on September 10, 2015.

At trial, the Officer testified that he was on routine patrol when he observed a vehicle traveling north on Diamond Hill Road in Cumberland. (Tr. at 4.) The Officer observed a gray inspection sticker on the vehicle, a sticker which he knew to be non-active as of 2014. Id. The Officer stopped the vehicle, approached the operator, and identified the operator as Appellant. Id. The Officer asked Appellant to produce his license, registration, and insurance. Id. The Appellant obliged. Id. The Officer ran the Appellant’s information through the Rhode Island

Law Enforcement Telecommunications System (RILETS), and discovered that Appellant's license was suspended, the vehicle had no active registration, and the inspection sticker was, indeed, out of date. Id. at 5. The Appellant stated to the Officer that "there was some type of mix up" with the Department of Motor Vehicles (DMV). Id. The Officer responded that Appellant "had to have that squared away with the DMV" because the registration had been expired for over two years. Id. The Officer testified that despite Appellant's reasoning, he ticketed Appellant for "Operation of Unregistered Motor Vehicle" and "Inspection Sticker Required." Id.

On cross-examination, Appellant questioned the Officer regarding the initial stop, asking "why did you stop the car?" Id. at 6. The Officer clarified, "I stopped the vehicle because I observed the inspection sticker that was out of date." Id. The Appellant countered "that is not a legal reason to stop the car." Id. At this point, the Trial Magistrate interjected and informed the Appellant that an officer can properly stop a vehicle with an expired inspection sticker. Id. The Appellant replied that "the federal law is clear . . . [he didn't] have any legal reason to stop the car." Id. The Trial Magistrate responded, "[o]perating a vehicle with no proper registration, expired registration, and expired inspection sticker would constitute a legitimate reason to pull the vehicle to the side." Id. at 7. The Appellant rejected this explanation and maintained that he did not violate any of the motor vehicle codes. Id. The Appellant added that sustaining this violation would be "offensive for the constitution [and] for every citizen." Id. at 8.

After listening to the testimony presented, the Trial Magistrate found the Officer's testimony to be credible. Id. at 11. Specifically, the Trial Magistrate stated "the violations of the inspection and the outdated license plate that [Appellant] displayed on [his] vehicle at the time did give [the Officer] proper reason to pull [Appellant] to the side." Id. Consequently, the Trial

Magistrate sustained the charged violations of § 31-3-1 and § 31-38-4. Id. Aggrieved by the Trial Magistrate’s decision, 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**

On appeal, Appellant contends that the Trial Magistrate’s decision was in violation of constitutional provisions and clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant claims that the Officer had no reason to conduct a traffic stop; that the DMV unconstitutionally “blocked” his registration; and that vehicle inspection requirements are governed by federal law, not state law.

It is well established that a traffic stop, regardless of how brief and limited, constitutes a seizure for purposes of the Fourth Amendment and therefore must be reasonable under the circumstances. See State v. Quinlan, 921 A.2d 96, 106 (R.I. 2007) (citing Whren v. United States, 517 U.S. 806, 809 (1996)). A stop is reasonable if the officer has “probable cause to believe that a traffic violation has occurred.” Id. The question of whether a stop is reasonable is “almost always fact specific.” Quinlan, 921 A.2d at 106 (citing United States v. Owens, 167 F.3d 739, 748 (1st Cir. 1999)).

Here, the facts on the record before this Panel indicate that the Officer was legally justified in stopping Appellant’s vehicle, under § 31-38-4, “Inspection Sticker Required.” While on patrol, the Officer observed that Appellant’s vehicle displayed an expired inspection sticker. (Tr. at 4.) The Officer knew the inspection sticker was expired because of the color. Id. The Officer subsequently stopped Appellant because of the expired sticker. Id. Appellant even acknowledged the violation, but reasoned that “there was some type of mix up” with the DMV.

Id. at 5. After hearing the testimony presented, the Trial Magistrate determined that “some type of mix up” was not an adequate defense. Id. at 11. The Trial Magistrate found that “the violations of the inspection and the outdated license plate that [Appellant] displayed on [his] vehicle at the time did give [the Officer] proper reason to pull [Appellant] to the side.” Id.

After reviewing the record, this Panel agrees with the Trial Magistrate’s determination that the traffic stop was reasonable because the Officer had probable cause to believe that Appellant was operating his vehicle with an expired inspection sticker. See State v. Bjerke, 697 A.2d 1069, 1072 (R.I. 1997) (“[a]s a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred”) (internal citation omitted).

Additionally, Appellant contends that the DMV, unconstitutionally “blocked” his registration from being renewed. Appellant explains that he paid for the renewal of his registration one time, three years ago. Appellant admits he has never paid car taxes.

Rhode Island General Law § 31-3-1 reads, in pertinent part:

“it is a civil violation for any person to operate . . . upon any highway any vehicle of a type required to be registered under this chapter which is not registered and for which the appropriate fee has not been paid or not registered as required in any other state.”  
Sec. 31-3-1.

Therefore, in order to lawfully operate a vehicle in Rhode Island, the vehicle must be registered and the appropriate fee paid. Id. The statute explains that vehicle registrations expire every year and details the procedure that must be taken by every vehicle owner in order to ensure that the registration is properly renewed. See § 31-3-33 (stating “application for renewal of a vehicle registration shall be made by the owner on a proper application form and by payment of the registration fee for the vehicle as provided by law”). The statute also provides that the DMV

shall “suspend or revoke a motor vehicle registration of any person who fails to pay any tax due in connection with the sale, storage, use, or other consumption of the motor vehicle.” See § 31-3-4. In essence, “the delinquent taxpayer cannot renew the registration of a motor vehicle for which the municipal tax levied thereon has not been paid.” Cohen v. Harrington, 711 A.2d 1191, 1194-95 (R.I. 1999).

Other than Appellant’s general assertion that the DMV “blocked” his registration renewal, the record is devoid of evidence establishing that the DMV did, in fact, revoke Appellant’s registration. This Panel can only infer, based on Appellant’s admission to not paying car taxes, that the DMV revoked his registration due to delinquent tax payments. Regardless, the record before this Panel establishes that Appellant was operating an unregistered motor vehicle, in violation of § 31-3-1. Therefore, the Trial Magistrate did not abuse his discretion when sustaining the charge. See Berberian v. Martin, 100 R.I. 227, 228-29, 214 A.2d 189, 190 (1965) (stating “reviewing court will not disturb trial judge's action absent a showing of abuse of discretion”).

In respect to Appellant’s assertion that the DMV acted “unconstitutionally” by blocking his registration, this Panel reiterates the principle that operating a vehicle within the State of Rhode Island is a privilege, not a fundamental right. See Dana v. Petit, 120 R.I. 168, 172, 386 A.2d 189, 191 (1978) (finding “every state has the power to suspend or revoke the motor vehicle operating privileges of its citizens for just cause”); see also State v. Garvin, 945 A.2d 821, 823 (R.I. 2008) (stating “the right to operate a motor vehicle on the public highways is not a fundamental right”). There is no constitutional right to operate a motor vehicle, as Appellant suggests; rather, it is a right “subject to reasonable control and regulation rationally related to

legitimate state interests.” See State v. Locke, 418 A.2d 843, 850 (1980). Registration requirements are one such reasonable regulation.

Finally, Appellant argues that vehicle inspection requirements are governed by federal law, not state law. This argument is unavailing.

The “police power” of a state permits enactment of laws, within constitutional limits, to promote the general welfare of the state’s citizens. See Berberian v. Lussier, 87 R.I. 226, 232, 139 A.2d 869, 872-73 (1958). Ensuring highway safety and lawful operation of motor vehicles on state highways are valid exercises of a state’s police power. Id. (stating “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”). The Rhode Island General Assembly—“in its efforts to promote highway safety and reduce the shocking repeated instances of injuries, death and property damage which have been attributable to malfunctioning and improperly equipped motor vehicles”—enacted § 31-38-1, et. seq., making it mandatory that all motor vehicles undergo at least one inspection annually to determine that vital equipment, such as the brakes, are in proper working order. See Bustza v. Souther, 102 R.I. 609, 615, 232 A.2d 396, 400 (1967); see also Nugent v. City of East Providence, 103 R.I. 518, 521, 238 A.2d 758, 760 (1968) (“[t]he State has sovereign and absolute jurisdiction and control of the roads, streets and highways within its borders”).

This Panel does not hesitate to conclude that the state may prohibit uninspected vehicles from traveling on the state's public highways as a valid exercise of the state's police power. This prohibition, memorialized in § 31-38-4, furthers the state’s legitimate interest in maintaining the safety of its public thoroughfares. See Bustza, 102 R.I. at 615, 232 A.2d at 400. The record before us clearly reflects that Appellant was operating his vehicle on a state roadway without

having the proper inspection sticker. (Tr. at 6.) Therefore, the Trial Magistrate did not abuse his discretion, and his decision to sustain the charged violation of § 31-38-4 was supported by legally competent evidence and not affected by error of law.

**Conclusion**

This Panel has reviewed the entire record before it. For all the reasons stated above, the members of this Panel are satisfied that the Trial Magistrate’s decision was not an abuse of discretion, affected by error of law, or in violation of statutory provisions. The decision was supported by reliable, probative, and substantial evidence on the whole record. Substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violations sustained.

ENTERED:

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Magistrate Alan R. Goulart (Chair)

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Magistrate William T. Noonan

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Judge Lillian M. Almeida

DATE: \_\_\_\_\_