

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF JAMESTOWN

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:
:
:
:

v.

**C.A. No. T14-0034
13301500295**

PATRICK J. WALKER

DECISION

PER CURIAM: Before this Panel on August 13, 2014—Magistrate Cruise (Chair), Judge Almeida, and Administrative Magistrate DiSandro III, sitting—is Patrick Walker’s (Appellant) appeal from a decision of Magistrate Goulart (trial magistrate), sustaining the charged violation of G.L. 1956 § 31-14-3, “Conditions Requiring Reduced Speed.” The Appellant appeared before this Panel, represented by counsel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On May 5, 2013, Detective Derek Carlino (Detective Carlino) of the Jamestown Police Department charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on March 14, 2014.

Before the trial, Appellant filed a Motion to Dismiss the violations. The Appellant asserted that because the stop occurred in North Kingstown, Detective Carlino, a member of the Jamestown Police Department, did not have authority to issue the summons to Appellant. The trial magistrate granted the Appellant’s motion with respect to the speeding charge and denied the Appellant’s motion with respect to jurisdiction.

At trial, Detective Carlino testified that on the night of the violation, he was finishing a traffic stop on Route 138 West. (Tr. Vol. 2 at 2.) He was stopped in the left high speed breakdown lane in Jamestown, a few feet before the Jamestown Bridge. (Tr. Vol. 2 at 2-3.) As

Detective Carlino was preparing to pull back into traffic, he observed a vehicle traveling at a high rate of speed in the high speed lane. (Tr. Vol. 2 at 3.) The driver failed to slow down and move over as he passed Detective Carlino. (Tr. Vol. 2 at 5.)

Detective Carlino initiated pursuit after the vehicle passed him. Id. He caught up with the vehicle past the crest of the bridge, and clocked its speed at 55 miles per hour. (Tr. Vol. 2 at 6.) For safety reasons, Detective Carlino waited until the vehicle was off the bridge to conduct the stop. (Tr. Vol. 2 at 9.) At the conclusion of the stop, Detective Carlino cited the operator, identified at trial as the Appellant. (Tr. Vol. 2 at 10.) Detective Carlino also testified that he had never been trained or informed of the line that separates North Kingstown from Jamestown. Id.

Next, Appellant presented his case in chief. (Tr. Vol. 2 at 20.) The Appellant introduced into evidence the video from the dashboard camera. (Tr. Vol. 1 at 21.) The Appellant asserted that the video showed he moved over to the right lane before he reached the detective's vehicle, and that he remained in that lane until he passed the detective. (Tr. Vol. 2 at 23.) Additionally, Appellant maintained that Detective Carlino did not obtain the speed of his vehicle until after the crest of the bridge, which Appellant argues is in the town of North Kingstown and not Jamestown. Id. Therefore, Appellant contends that the speeding violation was not under the jurisdictional authority of the officer. Id.

Based on the evidence presented at trial, the trial magistrate determined that the Appellant failed to slow down or move over when he passed Detective Carlino's vehicle. (Tr. Vol. 3 at 4.) Furthermore, the trial magistrate found that Detective Carlino pulled the Appellant over in the town of North Kingstown. (Tr. Vol. 3 at 5.) The trial magistrate found that neither § 45-42-1 nor § 45-42-2 permits Detective Carlino—a Jamestown detective—to conduct a traffic stop in North Kingstown. (Tr. Vol. 3 at 8.) However, the trial magistrate went on to hold that while

the extra-territorial stop was not authorized by statute, it did not constitute the kind of invasion of privacy that the Fourth Amendment prohibits. (Tr. Vol. 3 at 10.) Thereafter, the trial magistrate issued his decision sustaining the charged violation. (Tr. Vol. 3 at 12.) The trial magistrate imposed sentence, and 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 of the Rhode Island Traffic Tribunal. 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 asserts that the trial judge’s decision was affected by error of law. Specifically, Appellant contends that the trial judge erred by applying federal case law and ignoring precedential Rhode Island cases. The Appellant maintains that Detective Carlino—a Jamestown Police officer—was without authority to stop the Appellant in North Kingstown.

By law, “an officer’s authority may not be readily extended beyond the limits of the municipality. . . .” State v. Hagen, 819 A.2d 1256, 1258 (R.I. 2003). This limitation, however, is considered by our Supreme Court to be “archaic,” and the “jurisdictional borders confining the authority of the state’s various police departments . . . have become blurred by time and necessity.” Id.

However, our General Assembly has only prescribed two circumstances when a police officer may leave his jurisdiction to pursue a suspect. These exceptions include the emergency police power, pursuant to G.L. 1956 § 45-42-1, and arrest after close pursuit by officers from cities or towns, pursuant to G.L. 1956 § 12-7-19. See State v. Ceraso, 812 A.2d 829, 833 (R.I. 2002) (“There are two exceptions to general rule that the authority of a local police department is

limited to its own jurisdiction: first, when the police are in “hot pursuit” of a suspect, they may cross into another jurisdiction pursuant”). Neither of these statutes is invoked by the facts of this case.

Under the “emergency police power” exception established by § 45-42-1,¹ the police from one jurisdiction may exercise authority in another jurisdiction in emergency situations. Id. (citing State v. Locke, 418 A.2d 843, 847 (R.I. 1980) and Cioci v. Santos, 99 R.I. 308, 315, 207 A.2d 300, 304 (1965)). Applying the tools of statutory construction to determine the precise meaning of § 45-42-1, the Ceraso Court explained that the “General Assembly [in passing § 45-42-1] clearly envisioned situations where one police department would need the assistance of another police department and would need the assistance for emergency situations” Id. at 834. The Court stressed that the conferral of jurisdiction upon a law enforcement officer from another municipality need not be formal, and that the officer upon whom jurisdiction is conferred need not “engage in some stylized ritual in order to officially accept” the “authority, powers, duties, privileges, and immunities” of the conferring police agency. Id. at 835. “[I]n handling emergency situations in the safest and most efficient manner possible,” it is sufficient that the officer upon whom jurisdiction is conferred expressed a willingness to “sav[e] lives and property” in the conferring jurisdiction, or that an officer of the conferring jurisdiction requested such assistance and assistance was rendered. Id.

¹ Section 45-42-1 reads:

When the police chief of a city or town within the state or his or her designee requests emergency police assistance from another police department within the state, the officers responding to the request shall be subject to the authority of the requesting chief and have the same authority, powers, duties, privileges, and immunities as a duly appointed police officer of the city or town making the request, until the requesting chief of police discharges and releases the assisting police officers to their own departments.

Rhode Island courts have also held that where an officer is in “close pursuit,” he is authorized to make an arrest outside his jurisdiction, so long as the original observations of violations leading to the pursuit arose within his own jurisdiction. Section 12-7-19 states that:

“Any member of a duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit of a person in order to arrest him or her on the ground that he or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she has violated the motor vehicle code in any city or town.” (Emphasis added.)

Under the “hot pursuit” exception established by § 12-7-19,² the police may cross into another jurisdiction when in “hot pursuit” of a suspect. The Ceraso Court made clear that when a police officer leaves his or her jurisdiction, then that officer must obtain probable cause while in the officer’s jurisdiction and then subsequently arrest the fleeing person. Id.

The case at bar involved neither an emergency situation, nor hot pursuit for an arrest-able offense. Rather, Appellant was cited for a civil infraction of the motor vehicles code. As a result, Detective Carlino was without authority to enter North Kingstown and cite the Appellant for the aforementioned violation. In so deciding, this Panel is mindful that in the absence of a statutory or judicially recognized exception, the authority of a local police department is limited to its own jurisdiction. Ceraso, 812 A.2d at 833 (citing Page v. Staples, 13 R.I. 306 (1881)).

² Section 12-7-19 reads:

Any member of a duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit and continues within any city or town in such close pursuit of a person in order to arrest him or her on the ground that he or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she has violated the motor vehicle code in any city or town.

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel find that the trial magistrate's decision was in violation of statutory provisions and affected by other error of law.³ Substantial rights of Appellant have been prejudiced. Accordingly, Appellant's appeal is granted, and the charged violation dismissed.

ENTERED:

Judge Lillian M. Almeida

Magistrate Domenic A. DiSandro III

DATE: _____

³ Administrative Magistrate David R. Cruise participated in the decision but resigned prior to its publication.