

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED
MAY -8 AM 11:26

TOWN OF SMITHFIELD

:
:
:
:
:

v.

C.A. No. T12-0016

STEPHEN MACCHIONI

DECISION

PER CURIAM: Before this Panel on April 11, 2012—Judge Ciullo (Chair, presiding), Judge Parker, and Magistrate DiSandro, sitting—is Stephen Macchioni’s (Appellant) appeal from Magistrate Noonan’s decision, sustaining the charged violation of G.L. 1956 § 31-20-9, “Obedience to stop signs.” Appellant was represented by counsel before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On October 6, 2011, Patrolman David Walsh (Officer Walsh) of the Smithfield Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on March 5, 2012.

On the day of the violation, Officer Walsh was on a fixed traffic post in a parking lot on Pleasant View Avenue in Smithfield. (Tr. at 4.) Officer Walsh was observing traffic in the area. While at this traffic post, Officer Walsh observed the Appellant approach the stop sign at the intersection of Pleasant View Avenue and Cedar Swamp Road. Officer Walsh observed the Appellant approach the stop sign, not stop at the sign, and proceed northbound onto Pleasant View Avenue. Id. Officer Walsh testified that he had a clear, unobstructed view of the intersection. After witnessing a traffic violation, Officer Walsh pursued the Appellant’s vehicle

and conducted a traffic stop. At the conclusion of the stop, Officer Walsh issued the Appellant a citation for failing to stop at the stop sign.

On cross examination, the Appellant questioned Officer Walsh as to his positioning in the parking lot and his view of the stop sign. The Appellant showed Officer Walsh a photograph depicting a view from the parking lot where the officer was positioned. The Appellant maintained that the photograph showed that Officer Walsh did not have a clear view of the intersection. However, Officer Walsh stated that the photograph did not accurately depict his vantage point or his position in the parking lot. (Tr. at 6.) The Appellant then questioned Officer Walsh regarding the location of the stop line at the intersection. Appellant presented photographs to Officer Walsh depicting the location of the stop line. However, Officer Walsh stated that the pictures were taken after the intersection was repaved and the stop line was moved. (Tr. at 9.) Thus, the pictures did not accurately reflect the intersection at the time of the violation.

After his cross examination, the Appellant testified on his own behalf. (Tr. at 10.) During his testimony, Appellant admitted into evidence photographs depicting the area. Appellant testified as to what was depicted in the photographs. Specifically, Appellant testified as to the location of the cross walk and the stop line at the intersection. Again, Officer Walsh interjected and stated that the photographs did not accurately reflect the intersection on the day of the violation because they were taken after the intersection had been repaved. (Tr. at 14.) After admitting a total of five photographs, Appellant went on to testify that he came to a complete stop at the intersection. (Tr. at 18.) Appellant also stated that he did not believe Officer Walsh had a clear and unobstructed view of the intersection. (Tr. at 19.) It was the Appellant's contention that he came to a complete stop at the stop line and then proceeded into

the intersection. Appellant further contended that due to Officer Walsh's positioning, he did not see Appellant come to a complete stop, but instead, only saw the Appellant's vehicle after Appellant came to a complete stop.

After Appellant concluded his testimony, the trial magistrate asked Officer Walsh as to whether it was possible the officer only observed the Appellant after the Appellant came to a complete stop. Officer Walsh stated that he did not think it was possible because he had a clear view of the intersection which included the stop line. (Tr. at 19-20.) Appellant interjected and disagreed with Officer Walsh's testimony. Appellant directed the trial magistrate's attention to the photographs that were admitted into evidence. However, the trial magistrate determined that the photographs were of limited value because they were taken four weeks after the stop, and they did not accurately reflect Officer Walsh's vantage point of the intersection. (Tr. at 22.) The trial magistrate then sustained the violation. (Tr. at 21.) The trial magistrate determined that Officer Walsh was a credible witness. The trial magistrate found it significant that Officer Walsh was stationed at the traffic post to observe traffic at that intersection. Consequently, the trial magistrate determined that Officer Walsh would not position himself so that he could not clearly see the intersection. After sustaining the violation, the trial magistrate imposed a fine of eighty-five dollars. 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 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 magistrate abused his discretion. Specifically, Appellant argues that the trial magistrate erred in crediting the testimony of Officer Walsh over the Appellant. Appellant also argues that the trial magistrate's decision was against the clear

weight of the evidence because the photographs indicate that Officer Walsh did not have a clear view of the intersection.

In Link, our Supreme Court made clear that 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 Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). As the members of this Panel did not have an opportunity to view the live trial testimony of Officer Walsh or Appellant, it would be impermissible to second-guess the trial magistrate’s “impressions as he . . . observe[d] [Officer Walsh and Appellant] [,] listened to [their] testimony [and] . . . determine[ed] . . . what to accept and what to disregard[,] . . . what . . . [to] believe[] and disbelieve[.]” Environmental Scientific Corp., 621 A.2d at 206.

After listening to the testimony, the trial magistrate determined that Officer Walsh’s testimony was not only credible, but the testimony was sufficient to sustain the charged violation. In his decision, the trial magistrate specifically recognized the limited weight that he gave to the photographs that the Appellant maintains were critical to his case. Confining our review of the record to its proper scope, this Panel is satisfied that the trial magistrate did not abuse his discretion and his decision to sustain the charged violation is supported by legally competent evidence.

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the trial magistrate's decision is not in violation of statutory provisions and was not an abuse of discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violations sustained.