

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF WEST WARWICK

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:
:
:
:

v.

C.A. No. M17-0004
17204500619

JOHN D. VIEIRA

DECISION

PER CURIAM: Before this Panel on August 16, 2017—Judge Almeida (Chair), Chief Magistrate Guglietta, and Magistrate Kruse Weller, sitting—is John Vieira’s (Appellant) appeal from a decision of Judge John S. Brunero (Trial Judge) of the West Warwick Municipal Court, sustaining the charged violation of G.L. 1956 § 31-17-2, “Vehicle turning left or right.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On March 4, 2017, Officer Christopher Maznicki¹ and Sergeant Steven Blaze of the West Warwick Police Department were dispatched to the scene of an accident that occurred in the area of 67 Providence Street in West Warwick. (Tr. at 1.) After conducting an on-scene investigation, Officer Maznicki issued Appellant the aforementioned citation. *Id.* at 2; Summons No. 17204500619. The Appellant contested the violation, and the matter proceeded to trial on May 18, 2017.

¹ The transcript submitted by Appellant, refers to the officer as “Christopher Mending.” It appears that this was a typographical error as the other documents submitted with Appellant’s appeal, including the summons, list “Christopher Maznicki” as the citing officer. *See* Summons No. 17204500619. Hereafter, this Panel will disregard the typographical error, and refer to the testifying officer as “Officer Maznicki.”

At trial, Officer Maznicki testified that on the day of the accident, he responded to 67 Providence Street for a report of an accident. (Tr. at 1.) Upon his arrival at the scene, Officer Maznicki observed two vehicles that collided in the northbound travel lane. *Id.* One vehicle “sustained heavy front end damage,” but had moved from the sight of impact prior to Officer Maznicki’s arrival. *Id.* The second vehicle was disabled in the roadway, “position[ed] on a[n] angel [sic] across the no[rth] travel lane with both front airbags deployed.” *Id.* at 1-2.

During his investigation, Officer Maznicki spoke with the motorists, and identified Appellant as the driver of the disabled vehicle. *Id.* at 2. Officer Maznicki testified that while speaking with Appellant, Appellant stated that

“he was traveling South on Providence Street [] as he approached the area of the accident scene he started to slow down to make a left turn onto Wallace Ave., which is on the Warwick side of Providence Street. [Appellant] observed [the] vehicle [] travelling north and believed that the operator was stopping for him[.] [Appellant] then stated that he [started] to make a left turn and was struck on the passenger side of his vehicle.” *Id.*

Officer Maznicki further testified that he spoke to a third witness who observed the accident and later obtained a statement detailing his observations. *Id.* In addition, Officer Maznicki submitted four items into evidence: two diagrams of the accident scene, and two photographs of the damage to each vehicle. *Id.* at 3-4.

The second witness to testify at trial was Jeffrey Rigosta (Rigosta), the third party who observed the accident. *Id.* at 4. Rigosta recounted that on the day of the accident, while travelling southbound on Providence Street, he observed the car in front of him—later identified as Appellant’s vehicle—“kind of swerving like going close to the yellow line and then [] back.” *Id.* He noticed Appellant’s vehicle swerve a second time before Appellant “tried to make a left turn

onto the side street. That's when the other vehicle on the opposite side . . . that's when the collision happened." *Id.*

The Appellant was the last witness to testify at trial. *Id.* at 6. During his testimony, Appellant stated:

"I was turning in, I was in the breakdown lane, he took off then hit me. That's why my car is so far away from the curb, if you look at [W.W.P.D. exhibit 4], you can see it's the right side of his thing is dented How he could [sic] hit me was only if he was parked on the side of the road not if he was driving down the road and then hit me, it wouldn't be that side of the car." *Id.*

When the Trial Judge attempted to clarify Appellant's testimony, Appellant further explained that his vehicle was struck by a parked vehicle that drove off after the alleged collision. *Id.*

After hearing all of the witness testimony, the Trial Judge rendered his decision. *Id.* at 8-9. First, the Trial judge dismissed the violation of § 31-16-5—failing to use a turn signal—indicating that he had doubts about whether Appellant failed to use the turn signal. *Id.* at 8. The Trial Judge then stated: "[T]he physical evidence shows that the vehicle of the defendant took a left hand turn on a major roadway on Providence Street" *Id.* Based on the Trial Judge's findings of fact, the Trial Judge credited Rigosta's testimony, and rejected Appellant's assertion that his vehicle was hit by a parked car as it was leaving the curb. *Id.* Ultimately, the Trial Judge sustained the violation of § 31-17-2, stating that "it is clear and convincing that [Appellant] turned and failed to yield." *Id.* at 9.

Thereafter, Appellant timely filed this 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

On appeal, Appellant contends that pursuant to § 31-41.1-8(f), the Trial Judge’s decision was made in excess of the statutory authority of the judge or magistrate, and clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant asserts that the West Warwick Municipal Court did not have jurisdiction to adjudicate the violation, and that the Trial Judge erred in determining witness credibility.

A

Jurisdiction

First, Appellant claims that the West Warwick Municipal Court, and the West Warwick Police Department by implication, did not have proper jurisdiction to issue or adjudicate Appellant’s violations, because the accident allegedly occurred in Warwick, not West Warwick. Article 10, section 1, of the Rhode Island Constitution provides that “[t]he judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish.” Our Constitution grants “[t]he inferior courts . . . jurisdiction as may, from time to time, be prescribed by law.” R.I. Const. art X, sec. 2. The Rhode Island Supreme Court has “broadly construed the authority of the General Assembly under this article of our constitution to enact legislation dictating the jurisdiction of the lower courts.” *State v. Robinson*, 972 A.2d 150, 157 (R.I. 2009) (quoting *State v. Byrnes*, 456 A.2d 742, 744 (R.I. 1983)).

In accordance with that authority, the General Assembly established the municipal court's "jurisdiction over matters brought pursuant to § 31-41.1-7." Sec. 8-18-4(b). Section 31-41.1-7 includes violations of § 31-17-2, "Failure to yield right of way." Therefore, municipal courts have subject-matter jurisdiction to adjudicate the violation charged in this matter. *See Long v. Dell, Inc.* 984 A.2d 1074, 1079 (R.I. 2009) (quoting *Black's Law Dictionary* 931 (9th ed. 2009)) ("Subject-matter jurisdiction is the very essence of the court's power to hear and decide a case. *Black's Law Dictionary* defines subject-matter jurisdiction as, '[j]urisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things.'")

As municipal courts may hear cases involving violations of § 31-17-2, the issue becomes whether the Town of West Warwick had jurisdiction over Appellant's violation. Generally, "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). Even though, "the jurisdictional borders confining the authority of the state's various police departments . . . have become blurred by time and necessity," the Legislature established only two situations—"hot pursuit" and "emergency police power"—in which a local police department may exercise its authority beyond the boundaries of the municipality. *Id.*; *see State v. Ceraso*, 812 A.2d 829, 833 (R.I. 2002). As both exceptions are inapplicable to the facts of this case, pursuant to the general rule, the Town of West Warwick had authority over the matter, so long as the violation occurred within the bounds of the municipality. *See Tr. at 2; Hagen*, 819 A.2d at 1258.

Here, the Trial Judge heard credible evidence establishing that the violation occurred in West Warwick. Rigosta, the disinterested witness, testified that he was driving southbound on Providence Street in West Warwick when he observed Appellant's vehicle—also travelling

southbound, in front of him—make a left turn onto a side street. (Tr. at 4.) Moreover, Officer Meznicki testified that when he spoke with Appellant at the scene, Appellant explained that “he was travelling south on Providence Street . . . as he approached the area of the accident scene he started to slow down to make a left turn onto Wallace Ave., which is on the Warwick side of Providence Street.” *Id.* at 2. The Trial Judge indicated that he relied on the evidence presented by both witnesses to decide the case. *Id.* at 8-9. It is, therefore, reasonable to infer that the violation occurred in West Warwick because Appellant was required to yield prior to turning left and crossing onto the “Warwick side of Providence Street.”² *Id.* at 2; *see also Kilmartin v. Barbuto*, 158 A.3d 735, 747 (R.I. 2017), *as amended* (May 3, 2017) (quoting *Providence and Worcester Co. v. Exxon Corp.*, 116 R.I. 470, 486, 359 A.2d 329, 338 (1976)) (“[T]he drawing of an inference is initially the function of the trier of facts. The trial justice’s conclusions will be accepted by th[e] [c]ourt if the inference he [or she] drew was reasonable even though other equally reasonable inferences to the contrary might have been drawn.”)

Considering the evidence within the record, it is clear that the Town of West Warwick maintained the authority to issue the citation, as well as adjudicate the matter in the West Warwick Municipal Court, as Appellant failed to yield before turning onto the side of the roadway located in Warwick. For these reasons, this Panel finds that the Trial Judge had subject-matter jurisdiction, and did not act in excess of his statutory authority. *See* § 31-41.1-8(f)(2).

² Section 31-17-2(a) provides, in pertinent part, “[t]he driver of a vehicle within an intersection intended to turn to the left or right shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close to it as to constitute an immediate hazard”

B

Credibility

The Appellant also contends that the Trial Judge erred by crediting Rigosta and Officer Meznicki's testimony in his decision. In so arguing, Appellant maintains that a vehicle, parked in the breakdown lane on the northbound side of Providence Street, pulled out from the curb, hit his vehicle, and then drove off.

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)).

As discussed in the preceding section, the Trial Judge indicated that the physical evidence offered by Officer Meznicki, and Rigosta's testimony, established Appellant's violation by clear and convincing evidence.. (Tr. at 8-9.) 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). This Panel will not disturb the Trial Judge's findings regarding the weight of the evidence and witness credibility. Accordingly, the Trial Judge's decision was not clearly erroneous in view of the whole record. *See* § 31-41.1-8(f)(5).

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 made in excess of the statutory authority, 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 Lillian M. Almeida

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.