

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF MIDDLETOWN

:  
:  
:  
:  
:

v.

C.A. No. M12-0001

ERIC FLANDERS

12 APR -4 PM 3:39

STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

**DECISION**

**PER CURIAM:** Before this Panel on March 14, 2012—Magistrate Goulart (Chair, presiding), Chief Magistrate Guglietta, and Judge Almeida, sitting—is Eric Flanders’ (Appellant) appeal from a decision of Judge Regan (trial judge), sustaining the charged violation of G.L. 1956 § 31-22-22, “Safety belt use--Child restraint.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

**Facts and Travel**

On October 28, 2011, an officer from the Middletown Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on January 10, 2012.

At trial, the officer testified that he was on Maple Avenue in Middletown waiting to make a right turn onto West Main Road. (Tr. at 1.) Before making the turn onto West Main Road, the officer observed the Appellant turn off West Main Road and onto Maple Avenue. As the Appellant drove past the officer, the officer observed Appellant not wearing a seat belt. Specifically, the officer testified that he observed the Appellant not have the seat belt across his chest and, the officer noticed the buckle to the seat belt was hanging from the pillar inside the vehicle. Id.

After observing the Appellant, the officer reversed his direction and conducted a traffic stop. Upon approaching the vehicle, the officer stated that the Appellant now had his seat belt on. However, the officer testified that the Appellant admitted to only putting his seat belt on shortly before the stop. At the conclusion of the stop, the officer cited the Appellant for not wearing a seat belt.

At the conclusion of the officer's testimony, the Appellant cross-examined the officer. The Appellant asked the officer if he remembered what color coat the Appellant was wearing when the officer stopped him. The officer testified that he could not remember what color coat the Appellant was wearing. Id. After finishing his brief cross-examination, the Appellant testified on his own behalf. Appellant testified that he was wearing a seat belt the whole time he was driving, which was in contradiction to the officer's testimony. (Tr. at 2.) Appellant also noted that he thought he was stopped in Newport and not Middletown. Id. However, Appellant did not present any maps or similar documentation to support this contention.

After hearing both parties, the trial judge issued his decision sustaining the charged violation. Id. The trial judge recounted the aforementioned facts in his decision. The trial judge stated that the officer's testimony was sufficient to sustain the charged violation. Additionally, the trial judge determined that the officer's testimony was "very factual," and the officer was a credible witness. Id. The trial judge noted that he found the officer's testimony to be more credible than the Appellant's because the officer's testimony recounted more facts. The trial judge specifically rejected the Appellant's argument that the officer was not a credible witness because the officer could not remember the color coat the Appellant was wearing on the day of the stop. Finally, the trial judge concluded that there was insufficient evidence presented by the

Appellant to determine if the traffic violation occurred in Newport or Middletown. Id.  
Appellant timely filed this appeal.

### Standard of Review

Pursuant to G.L. 1956 § 8-18-9, any person may appeal an adverse decision from a municipal court and seek review from this Panel pursuant to the procedures set forth in § 31-41.1-8. 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 argues that the trial judge’s decision was an abuse of discretion. Specifically, Appellant argues that the trial judge erred by accepting the officer’s testimony as credible and favoring that testimony over the Appellant’s testimony. Appellant argues—as he did at trial—that the officer’s inability to recall the color coat the Appellant was wearing at the time of the stop casts doubt over the officer’s ability to recall the facts pertinent to the traffic violation.

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 the officer or Appellant, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the officer 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 judge determined that the officer's testimony was not only credible, but the testimony was sufficient to sustain the charged violation. The trial judge specifically found the officer's testimony to be more credible than that of the Appellant. (Tr. at 2.) Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge 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 member of this Panel are satisfied that the trial judge's decision is not 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 violation sustained.