

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
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CITY OF WOONSOCKET

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V.

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Appeal No. M11-0008

MICHAEL SKINNER

DECISION

PER CURIAM: Before this Panel on June 29, 2011 – Magistrate Noonan (Chair, presiding), Administrative Magistrate Cruise, and Judge Almeida, sitting – is Michael Skinner’s (Appellant) appeal from a decision of Judge Gariepy, sustaining the charged violations of G.L 1956 § 31-17-4 “Vehicle entering stop or yield intersection,” brought by the Town of Woonsocket (Appellee). Appellant appeared pro se before this Panel. Jurisdiction is pursuant to §31-41.1-8.

I

Facts and Travel

On January 11, 2011, Appellant’s vehicle was struck by another vehicle at the intersection of Mendon Road and Aylsworth Avenue in Woonsocket, Rhode Island. (Tr. at 11.) Appellant’s vehicle was midway across Mendon Road when his vehicle was struck on the rear door panel. (Tr. at 12.) Officer Timothy Greene (Officer Greene), of the Woonsocket Police Department, arrived after the accident and questioned both parties. (Tr. at 2.) Based on the other motorist’s statements, and the scene of the accident, Officer Greene concluded that Appellant failed to yield at a stop sign and charged

Appellant with violating §31-17-4. Appellant contested the charge, and the matter proceeded to trial.

At trial, Officer Greene testified that Appellant admitted that he had moved his car beyond the stop sign to check for traffic approaching on Mendon Road. (Tr. at 3.) Officer Greene testified that there were no visual obstructions at the intersection, and that the night of the accident was clear and dry. On cross-examination Officer Greene admitted that he did not witness Appellant drive through the stop sign. (Tr. at 4.) Officer Greene also stated that when he arrived at the scene, the vehicles were not in the same position as they were at the time of the accident. (Tr. at 3.)

Following Officer Greene's testimony, the driver who hit Appellant's car (the Driver) testified she was returning to her Woonsocket home from Providence along Mendon Road. (Tr. at 5.) She stated that as she approached the intersection of Mendon Road and Aylsworth Avenue, she saw Appellant's car traveling on Aylsworth Avenue. (Tr. at 6.) The Driver testified she was driving at thirty to thirty-five miles per hour. The Driver continued, by noting that she immediately braked upon seeing Appellant's vehicle drive through the stop sign. (Tr. at 8.) The Driver asserted that Appellant "did not stop at all" at the stop sign. (Tr. at 7.) On cross-examination, the Driver testified that her view of the roadway was not obstructed and there was no snow on the surface of the roadway. (Tr. at 8.)

Following the Driver's testimony, Appellant testified. The Appellant asserted that after stopping at the stop sign on Aylsworth Avenue, he attempted to appraise the traffic on Mendon road, but a large snow bank on the roadside blocked his view (Tr. at 11.) Appellant also asserted that after stopping at the stop sign, he "edged" his vehicle

forward to check for traffic traveling down Mendon Road. (Tr. at 13.) Appellant explained that upon finding the street clear of oncoming traffic, he proceeded to make a left turn across Mendon Road. (Tr. at 11.) Appellant's vehicle was then struck on the rear door panel. (Tr. at 12.) On cross-examination, Appellant admitted he had pulled his vehicle past the stop sign to look for oncoming traffic. (Tr. at 13.)

At the conclusion of testimony, the trial judge sustained the charge against Appellant for failing to yield the right-of-way to a vehicle. (Tr. at 18.) The trial judge noted that even though the Appellant may have stopped at the stop sign, § 31-17-4 requires a driver to remain stopped at a stop sign if driving forward constitutes an immediate hazard to any oncoming vehicles. (Tr. at 18.) The trial judge found Appellant was "in the sights of" the oncoming vehicle at all times and should not have proceeded through the intersection. (Tr. at 18.) The trial judge found the Driver's testimony and Officer's testimony about the circumstances of the accident clear and convincing. (Tr. at 18.) Finding this testimony to be credible, the trial judge held that the City had met its burden under § 31-17-4, and imposed penalties. (Tr. at 19.)

Appellant appealed this Decision. The Decision of the majority of the Appeals Panel is rendered below.

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 on questions of fact. The appeals panel may affirm the decision of the

judge or magistrate, may remand the case for further proceedings, or may reverse or modify the decision if the substantial rights of the appellant have been prejudiced 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 following 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, capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion."

In reviewing a hearing judge'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 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 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 conclusions on appeal. See Janes, 586 A.2d at 537.

III

Analysis

On appeal, Appellant contends that the trial judge's decision is not based on clear and convincing evidence, and therefore prejudices Appellant's substantial rights.

Appellant claims the trial judge sustained the “Vehicle entering stop or yield intersection” without basing his decision on the clear and convincing evidence presented at trial. Appellant also claims the trial judge erred in finding Appellant’s explanation of the accident incredible. Appellant asserts that the trial judge is required to base his findings of fact on clear and convincing evidence and her failure to do so has prejudiced Appellant’s substantial rights.

The City argues that the trial court judge’s credibility determinations were valid and based on clear and convincing evidence. The City asserts that the trial judge relied on the testimony of Officer Greene, the Driver, and the Defendant in reaching his determination. The City argues that Rhode Island caselaw makes clear that the trial judge’s evaluation of the evidence is given deference on appellate review.

The Rhode Island Supreme Court has stated that this Panel “lacks the authority to assess witness credibility or to substitute its own judgment for that of the hearing magistrate concerning the weight of the evidence on questions of facts.” 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)). Furthermore, the Appeals Panel is “limited to a determination of whether the hearing justice’s decision is supported by legally competent evidence.” Marran v. State, 672 A.2d 875, 876 (R.I. 1996). As the members of this Panel did not have an opportunity to view the live trial testimony of Officer Greene, the Driver, or Appellant, we must give great deference to the trial judge’s impressions, because he observed the testimony firsthand. Envtl. Scientific Corp. v. Durfee, 621 A.2d 200,208 (R.I. 1993). As such, this Panel must confine its review of the case to the record. This

Panel must only determine whether the trial magistrate's decision is supported by legally competent evidence, and is unaffected by error of law. See id.

The trial judge was present for Appellant's March 3, 2011 testimony, and decided that the Driver's explanation of the accident was credible and convincing when compared with the testimony of Appellant. (Tr. at 18.) It is entirely within the trial judge's discretion to weigh such evidence and testimony. See Link, 633 A.2d at 1348. In this case, there is ample evidence in the record to support all of the trial judge's findings. See id. The trial judge heard testimony presented by the City of Woonsocket's witness regarding her experiences at the accident scene. Based on the testimony presented, the trial judge made a determination that the testimony was reliable and met the requirements of §31-17-4.

A trial judge sitting as a finder of fact is expected to use his or her judgment in evaluating issues of credibility and fact. See Link, 633 A.2d 1348. In this case, the trial judge heard testimony from Officer Greene, the Driver, and Appellant. As such, the record clearly supports the trial judge's finding that Appellant was guilty of violating § 31-17-4 by the clear and convincing evidence presented at trial. See id. Therefore, the members of this Panel are satisfied that the trial magistrate's decision to sustain the charged violations is supported by legally competent evidence, and is unaffected by error of law or abuse of discretion.

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 is not clearly erroneous in light of the reliable, probative, and substantial record evidence or affected by other error of law. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

DATE: 9/14/11