STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT — RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
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CITY OF PROVIDENCE :
:
v. : C.A. No. M11-0024
:
AMOS LABRADOR :

DECISION

PER CURIAM: Before this Panel on February 1, 2012—Magistrate Goulart (Chair, presiding), Judge Ciullo, and Judge Parker, sitting—is Amos Labrador's (Appellant) appeal from a decision of Judge Giannini of the Providence Municipal Court (trial judge), sustaining the charged violations of G.L. 1956 § 31-22-22 (f)(1), "Safety belt use--Child restraint"; § 31-22-22 (f)(1); and § 31-22-22 (g) (seatbelt violations). Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On September 21, 2011, Officer Hastings of the Providence Police Department charged Appellant with the aforementioned seatbelt violations of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on November 9, 2011.

Officer Hastings first observed the Appellant operating his vehicle in the area of Union Avenue and Pocasset Avenue in Providence. (Tr. at 1.) Upon seeing the Appellant, Officer Hastings immediately observed that neither the Appellant nor his two passengers were wearing their seatbelts. Id. Thereafter, Officer Hastings conducted a traffic stop and cited the Appellant for the aforementioned seatbelt violations.

At the trial, the Appellant contended that Officer Hastings' motivation for stopping the Appellant was related to his Hispanic heritage. (Tr. at 2.) Appellant also questioned Officer Hastings' decision to conduct a search of the Appellant's vehicle during the traffic stop. The trial judge instructed the Appellant the issue before the court was whether the Appellant and his passengers were wearing seatbelts. The trial judge also instructed the Appellant that issues regarding racial profiling were not relevant to the issue at hand. Finally, Appellant contended that Officer Hastings was not in a position to observe whether the Appellant and his passengers were wearing their seatbelts.

After both parties finished presenting evidence, the trial judge issued his decision sustaining the seatbelt violations. (Tr. at 5.) Notably, the trial judge's decision to sustain the violation was based on Officer Hastings' uncontradicted testimony. (Tr. at 4.) The trial judge specifically noted that Appellant never contested Officer Hastings' observations that neither Appellant nor his occupants were not wearing their seatbelts. Furthermore, the trial judge specifically rejected Appellant's contentions regarding racial profiling and the search of his vehicle as irrelevant. 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 affected by an error of law and clearly erroneous in light of the lack of reliable, substantive and probative record evidence.

Appellant asserts the trial judge abused his discretion by choosing to credit Officer Hastings' trial testimony that he observed the Appellant and his passengers not wearing their seatbelts.

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 Hastings or Appellant, it would be impermissible to second-guess the trial magistrate's "impressions as he . . . observe[d] [Officer Hastings 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 Officer Hastings' testimony was sufficient to sustain the charged violations. 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.

At the trial, the Appellant spent considerable time discussing the search of his vehicle and his belief that he was being profiled by Officer Hastings, which the trial judge deemed to be irrelevant. However, the Appellant did not dispute Officer Hastings' observations that Appellant and his passengers were not wearing their seatbelts. The trial judge made specific reference to this fact in sustaining the seatbelt violations. In sustaining the seatbelt violations, the trial judge properly confined the matter to whether the Appellant and his passengers were wearing their seatbelts. Furthermore, the trial judge was satisfied that Officer Hastings observed the Appellant and his passengers not wearing their seatbelts.

Accordingly, the members of this Panel conclude that the trial judge's decision to sustain the charged violations—based on Officer Hastings' testimony—is unaffected by error of law and does not constitute an abuse of discretion. Accordingly, Appellant's appeal is denied.

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