

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF EAST PROVIDENCE

v.

CLIFFORD HOY

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C.A. No. M12-0015
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STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED

DECISION

PER CURIAM: Before this Panel on November 28, 2012—Magistrate Goulart (Chair, presiding), Chief Magistrate Guglietta, and Judge Almeida, sitting—is Clifford Hoy’s (Appellant) appeal from a decision of the Municipal Court, sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to traffic control devices.” The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On January 25, 2012, an officer from the East Providence Police Department (Officer) conducted a traffic stop at the intersection of Roger Williams Avenue and Pawtucket Avenue in East Providence. (Tr. at 1.) Appellant was issued a citation for the aforementioned motor vehicle offense. Appellant contested the charge, and the matter proceeded to trial on July 19, 2012.

The trial commenced with the officer testifying that he “. . . observed the operator go northbound on Pawtucket Avenue . . . [and drive] . . . through a red light.” Id. The officer also noticed that the operator of the vehicle was wearing headphones. Id. He then conducted a traffic stop of the vehicle. At trial, the officer testified that the vehicle

entered the intersection after the traffic light turned red. The officer was stationed at the intersection of Roger Williams and Pawtucket Avenue with a clear and unobstructed view. Id. Thereafter, the Appellant testified that the light was yellow when he was in the middle of the intersection. (Tr. at 2.) Appellant went on to state that a vehicle was directly behind him and he avoided being rear-ended by that vehicle by proceeding through the yellow light. Id.

At the close of evidence, the trial judge recounted the aforementioned facts in his decision. In rendering his decision, the trial judge determined that the light turned red while Appellant drove through the intersection. Id. The judge found the officer credible and adopted the officer's testimony. In summation, the trial judge sustained the violation. Id. Appellant timely filed this appeal.

Standard of Review

Pursuant to § 8-18-9, "[a]ny person desiring to appeal from an adverse decision of a municipal court . . . may seek review thereof pursuant to the procedures set forth in § 31-41.1-8." Section 31-41.1-8 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'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.

Analysis

On appeal, Appellant argues that the decision made by the trial judge was against the evidence presented. In particular, Appellant contends that the Appellant's testimony at trial presented a valid excuse for his behavior and thereby warranted dismissal of the charge.

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 witnesses, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the witnesses.] [The trial judge] 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.

Here, Appellant argues that the evidence elicited at trial was insufficient to sustain the violation. Appellant contends that the testimony given at trial was not enough to meet the requirements of the charged offense. However, Appellant’s arguments relate to questions of fact that were heard and weighed by the trial judge at Appellant’s trial. The trial judge stated in his decision that “. . . what happened is [the light] turned red while [Appellant] drove by” (Tr. at 2.) After hearing all of the evidence, the judge concluded that all of the elements of the violation were met and the judge went on to state that “. . . [Appellant] did in fact fail to adhere to a traffic control device at 6:05 p.m. on Pawtucket Avenue” Id. This Panel’s review is limited to determining whether the trial judge made an error in law or misapplied the evidence. See Link, 633 A.2d at 1348 (our Supreme Court held that this Panel’s review is limited in scope).

Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge did not abuse his discretion. The trial judge’s decision to sustain the charged violation is supported by legally competent evidence—the testimony of the officer—which the trial judge chose to credit over the Appellant’s.

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 an abuse of discretion 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.