

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, S.C.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

JAMES HUNNICUTT

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C.A. No. T08-0052

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on June 18, 2008, Magistrate DiSandro (Chair), Judge Almeida, and Magistrate Noonan sitting, is James Hunnicutt's (Appellant) appeal from Judge Ciullo's decision, sustaining the charged violations of G.L. 1956 § 31-26-3.2, "Immediate Notice of Accident" and G.L. 1956 § 31-15-11, "Laned Roadways." The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On December 30, 2007, Appellant was charged with violating the aforementioned motor vehicle offenses by Patrol Officer Justin Nutting (Officer Nutting) of the Hopkinton Police Department. The Appellant contested the charges, and the matter proceeded to trial.

At trial, Officer Nutting testified that prior to citing Appellant, he observed a black Mazda bearing a Rhode Island passenger registration parked in the northbound shoulder of Woodville Alton Road. (Tr. at 1.) Officer Nutting testified that the vehicle was unattended at the time he arrived. Id. Officer Nutting observed that the vehicle had sustained extensive damage to the left front wheel and that there was a fresh skid mark to the left of the damaged area. Id. He noted that the skid mark started in the southbound

lane of Woodville Alton Road and continued around a bend in the road toward a raised center median, which had also sustained damage. Id. According to his professional training and experience, Officer Nutting concluded that the damage to the median was consistent with having been struck by an automobile. Id.

Officer Nutting also testified that shortly after discovering the damaged vehicle and having it towed to a safe location, Appellant contacted the Hopkinton Police Department to inquire about the vehicle's location. Id. When he subsequently appeared at police headquarters, Appellant was questioned by Officer Nutting about the circumstances surrounding the accident. Id. Officer Nutting testified that Appellant was fully cooperative and stated that he had taken a curve on Woodville Alton Road too quickly and lost control of the vehicle. Id. The Appellant informed Officer Nutting that he was unaware of the presence of the raised center median before his vehicle struck it. Id.

Despite the fact that his car was incapable of safe operation, Appellant did not contact the police immediately following the collision because he did not believe that he had been in an "accident." (Tr. at 2.) The Appellant testified that he left the vehicle at the scene of the accident in order to contact AAA roadside assistance. Id. The Appellant argued that he otherwise acted reasonably under the circumstances by moving his vehicle to the northbound shoulder, contacting the Hopkinton police soon after discovering that the vehicle had been towed, and by fully cooperating with the police investigation. (Tr. at 1-2.)

Following a trial, the trial judge sustained Appellant's violations of §§ 31-26-3.2 and 31-15-11. The trial judge found that Appellant violated § 31-26-3.2 because he

failed to call the police following the accident. (Tr. at 2-3.) The trial judge also found that Appellant violated § 31-15-11 because his vehicle traveled out of the laned roadway and struck the median. Id.

The Appellant has filed a timely appeal of the trial court's decision. Forthwith is this Panel's decision.

### **Standard of Review**

Pursuant to G.L. 1956 § 31-41.1-8(f), 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 another 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.”

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 (R.I. 1993). 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) (citing Link, 633 A.2d at 1348). The Panel may reverse a decision of a hearing judge or magistrate where the

decision is “clearly erroneous in view of the reliable, probative, and substantial evidence contained in the whole record.” Costa v. Registry of Motor Vehicles, 543 A.2d 1307, 1309 (R.I. 1988).

### Analysis

On appeal, Appellant argued that the trial judge had reached a decision prior to trial and was seemingly uninterested in his version of the underlying events. We disagree.

With regard to Appellant’s arguments, this Panel notes that the scope of review on appeal is “limited to a determination of whether the hearing judge’s decision is supported by legally competent evidence.” Marran v. State, 672 A.2d 875, 876 (R.I. 1996). Accordingly, this Panel reviews whether the trial judge’s decision was supported by the reliable, probative, and substantial evidence in the record in order to sustain the charges. Furthermore, this Panel cannot substitute its judgment for that of the trial judge with respect to credibility determinations. Link v. State, 633 A.2d 1345 (R.I. 1993).

Upon a review of the entire record, this Panel is satisfied that the trial judge’s decision is supported by the reliable, probative, and substantial evidence in the record. The Appellant testified that he did not contact the Hopkinton Police Department immediately following the collision that rendered his car incapable of safe operation; rather, Appellant chose to contact only AAA roadside assistance. (Tr. at 2.) Further, Officer Nutting’s testimony regarding the division of Woodville Alton Road into two clearly marked north-south travel lanes, the skid mark next to Appellant’s disabled vehicle, and the damage that was evident to the raised median provided credible evidence that Appellant violated § 31-15-11.

### Conclusion

Upon a review of the entire record, this Panel concludes that the trial judge's decision was not clearly erroneous and was not affected by error of law. Substantial rights of Appellant have not been prejudiced. Accordingly, this Panel sustains Appellant's violations and dismisses his appeal.

ENTERED: