

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, S.C.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

JAMES ADAMS

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C.A. No. T09-0013

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on May 13, 2009—Magistrate Cruise (Chair, presiding) and Judge Ciullo and Magistrate DiSandro, sitting—is James Adams’ (Appellant) appeal from a decision of Magistrate Noonan, sustaining the charged violation of G.L. 1956 § 31-15-12, “Interval between vehicles.” The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On October 24, 2008, a trooper of the Rhode Island State Police (Trooper) charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial.

The Trooper testified that on the date in question, at approximately 11:30 AM, he had just completed a motor vehicle stop on Route 146 South when he observed a white sedan “closing on [his] vehicle from behind . . . .” (Tr. at 2.) According to the Trooper, the vehicle “closed to within ten to fifteen feet from [his] vehicle and maintained that distance.” Id. The Trooper further testified that he was driving a marked cruiser “with high visibility letters on all sides that [read] ‘State Police.’” Id. According to the Trooper, Appellant continued to drive close behind him, thus the Trooper made a lane change to the right and pulled behind the subject

vehicle. The Trooper initiated a traffic stop of the vehicle and charged the operator, identified at trial as Appellant, with the aforementioned violation. Id. Upon questioning from the trial magistrate, the Trooper testified that Appellant was traveling at approximately fifty-five (55) miles per hour (mph) and the traffic on Route 146 was moderate. Id.

At the conclusion of the Trooper's trial testimony, the trial magistrate asked Appellant about the approximate distance between his vehicle and the Trooper's cruiser. (Tr. at 3.) While Appellant testified that he did not think he was engaged in a "tailgating situation" because he was in "complete control of his vehicle . . . [and] was on the brakes . . . [and] not on the gas," he did not provide the trial magistrate with an estimate of the approximate distance between the vehicles. Id. Following the trial, the trial magistrate sustained the charged violation of § 31-15-12. The Appellant, aggrieved by this decision, filed a timely appeal to this Panel. Our decision is rendered below.

#### **Standard of Review**

Pursuant to G.L. 1956 § 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 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 magistrate's decision is characterized by abuse of discretion. Specifically, Appellant contends that the trial magistrate abused his discretion by choosing to credit the trial testimony of the Trooper and by choosing to discount the trial testimony of Appellant.

This Panel is satisfied that the trial magistrate's decision is supported by legally competent evidence and is unaffected by error of law. As set forth 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 magistrate 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 Trooper and Appellant, it would be impermissible to second-guess the trial magistrate’s “impressions as he . . . observe[d] [the Trooper 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. Thus, we will confine our review of the record to its proper scope to determine whether the trial magistrate’s decision is supported by legally competent evidence and unaffected by an error of law.

The Trooper testified at trial that Appellant was “follow[ing] [his] vehicle more closely than [was] reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway . . . .” Section 31-15-12. The Trooper indicated that Appellant “closed to within ten to fifteen feet from [his] vehicle and maintained that distance” from the Trooper’s marked cruiser. Appellant failed to rebut this testimony. (Tr. at 2.) Indeed, when the trial magistrate asked Appellant to gauge the approximate distance between his vehicle and the Trooper’s cruiser, his answer that he was in “complete control of his vehicle . . . [and] was on the brakes . . . [and] not on the gas” was non-responsive. (Tr. at 3.) The Trooper explained that Appellant was traveling approximately fifty-five mph and that the traffic on Route 146 South was moderate at the time of the charged violation. (Tr. at 2.) As a result, the Trooper indicated that Appellant did not “leave sufficient space so that an overtaking vehicle may enter and occupy the space without danger,” thus violating § 31-15-12. Therefore, the members of this Panel conclude that the trial magistrate’s decision to sustain the charged violation is supported by legally competent evidence and is unaffected by an error of law.

### Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the trial magistrate's decision is not affected by error of law or clearly erroneous in light of the reliable, probative, and substantial record evidence. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained. The monetary fine shall be assessed in the form of court costs.