

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, S.C.

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

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v.

C.A. No. T09-0054

FRANTZ LOUIZIA

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on June 10, 2009—Magistrate Goulart (Chair, presiding) and Judge Parker and Magistrate Noonan sitting—is Frantz Louizia’s (Appellant) appeal from a decision of Magistrate Cruise, sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On February 1, 2009, Trooper Michael Doriety (Trooper Doriety) of the Rhode Island State Police charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial.

At trial, Trooper Doriety testified that on the date in question, at approximately 2:20 a.m., he was stationed at a fixed radar post on Route 95 South in the Town of Richmond, in the vicinity of Exit 4. (Tr. at 1.) Trooper Doriety observed Appellant’s vehicle operating at a high rate of speed and obtained a radar speed reading of 85 m.p.h. in a posted 65 m.p.h. zone. Id. Trooper Doriety initiated a traffic stop of Appellant’s vehicle and issued a citation. Id.

On questioning by the trial magistrate, Trooper Doreity testified that his cruiser's mounted radar unit had been calibrated internally both before and after his assigned shift and was found to be in proper working order. (Tr. at 1-2.) He also testified that he received training in the use of radar units at the Rhode Island State Police Academy in 2005. (Tr. at 1.)

At the conclusion of Trooper Doreity's trial testimony, Appellant produced GPS "sheets" obtained from Garmin, the manufacturer of his GPS unit. (Tr. at 2.) According to Appellant, these "sheets" recorded the position and rate of speed of his vehicle at the time of the traffic stop. (Tr. at 2-3.) According to Appellant, the "sheet" suggested that Appellant's vehicle was traveling at approximately 65 m.p.h. at the time of the traffic stop. (Tr. at 3.) The Appellant argued that the information on the "sheets" provided by Garmin proved conclusively that he was not traveling in excess of the posted speed limit at the time of the traffic stop. Id.

In reaching his decision, the trial magistrate weighed the scientific reliability of the radar speed reading obtained by Trooper Doreity's radar unit and the reading obtained by Appellant's GPS unit. (Tr. at 4.) Finding that these evidentiary proffers were contradictory, the trial magistrate found that Trooper Doreity's speed reading was more reliable and entitled to greater weight. (Tr. at 4-5.)

Following the trial, the trial magistrate sustained the charged violation of § 31-14-2. Aggrieved by this decision, Appellant 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 Appellee 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 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 failing to properly consider evidence Appellant characterizes as relevant and material to adjudication of the charged violation of § 31-14-2: namely, the GPS “sheet” from Appellant’s vehicle that indicated that his vehicle was traveling at approximately 65 m.p.h. at the time Trooper Doriety initiated a traffic stop of his vehicle.

In actions tried upon the facts without a jury, the trial justice sits as a trier of fact as well as of law, and consequently, the trial justice weighs and considers the evidence, passes upon the credibility of the witnesses, and draws proper inferences. See Parella v. Montalbano, 899 A.2d 1226 (R.I. 2006). In weighing and considering the evidence, the “trial justice has wide discretion in determining the relevancy, materiality, and admissibility of offered evidence . . .” Accetta v. Provencal, 962 A.2d 56, 60 (R.I. 2009) (quoting State v. Lora, 850 A.2d 109, 111 (R.I. 2004)). “[T]he exclusion of evidence on the grounds of relevancy is soundly within the trial justice’s discretionary power, and . . . will not [be] reverse[d] . . . absent an abuse of discretion.” Ruffel v Ruffel, 900 A.2d 1178, 1192 (R.I. 2006) (quoting State v. Marini, 628 A.2d 507, 516 (R.I. 1994)).

Here, the record reflects that the trial magistrate gave due consideration to the GPS readout produced by Appellant in rendering his decision. The trial magistrate questioned Appellant on the record regarding the specific features of the GPS unit used by Appellant to demonstrate his rate of speed at the time of the traffic stop. (Tr. at 3-4.)

When Appellant failed to prove that the GPS unit accurately recorded the speed of his vehicle or that the GPS unit was actually in his vehicle at the time of the traffic stop, the trial magistrate properly disregarded this evidence. (Tr. at 5.)

In addition, the record reflects that Trooper Doriety's trial testimony satisfies the prevailing standard for the admissibility of radar speed readings set forth in State v. Sprague, 113 R.I. 351, 322 A.2d 36 (1974). In Sprague, our Supreme Court held that a radar speed reading is admissible in evidence upon a showing that "the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method," and "testimony setting forth [the officer's] training and experience in the use of the radar unit." Sprague, 113 R.I. 351, 322 A.2d at 39-40. The trial magistrate chose to credit Trooper Doriety's trial testimony that he was trained in the use of radar units in 2005 and that his cruiser's mounted unit had been properly calibrated and found to be in proper working order before his shift began that night. (Tr. at 1-2.) Accordingly, the members of this Panel are satisfied that the decision to sustain the charged violation of § 31-14-2 is supported by legally competent evidence and is not otherwise affected by 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 characterized by abuse of discretion, clearly erroneous in view of the reliable, probative, and substantial record evidence, or otherwise affected by error of law. The Appellant's substantial rights have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.