

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. T11-0005

JAMES SULLIVAN

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STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED

DECISION

PER CURIAM: Before this Panel on March 30, 2011—Magistrate Noonan (Chairman presiding), Judge Almeida and Magistrate Cruise, sitting—is James Sullivan’s (Appellant) appeal from a decision of Judge Parker, 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 January 21, 2009, Trooper Kenneth Jones (Trooper Jones) 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 Jones testified that while he was on fixed radar post on Route 138 West in the “Aquidneck Island area,” he observed Appellant to be operating his vehicle above the posted speed limit. (Tr. at 2.) The trooper then initiated a traffic stop of Appellant’s vehicle and later cited Appellant for traveling 55 miles per hour in a 45 miles per hour zone. Id. Later in his testimony, he informed the court that “h[is] radar was set internally and externally prior to going on post[,] [and] that [he] received training in the use of radar at the State Police Training Academy in June of 1997.” Id.

After Trooper Jones had finished his testimony, Appellant testified on his own behalf. He admitted to speeding but claimed he did so out of fear for his life. (Tr. at 3.) Prior to getting pulled over, Appellant claimed that “the rear of his vehicle was struck several times” by an enraged motorist. Id. In Appellant’s view, traveling fast was aiding his attempt to avoid any further danger. Also, Appellant informed the trial judge that Trooper Jones, who had testified earlier was not the trooper who had issued him the citation. Id. Appellant claimed that he told his story of speeding to avoid danger to the other trooper who conducted the traffic stop. Id.

When asked by the trial judge if he had been present at the scene, Trooper Jones answered that he was there but was accompanied by another trooper. (Tr. at 4.) In any event, the trooper claimed that he had never heard Appellant’s story about evading danger. Id. At the conclusion of the testimony, the trial judge sustained the charge. Appellant appealed.

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 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 failing to properly consider evidence which Appellant characterizes as

relevant and material to the adjudication of the charged violation of § 31-14-2: namely, his motives for fleeing the danger he faced.

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. Provençal, 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 grounds of relevancy is soundly within the trial justice’s discretionary powers, 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, 638 A.2d 507, 516 (R.I. 1994)).

The record indicates that the trial judge inquired as to the merits of Appellant’s story by questioning Trooper Jones as to its validity. Appellant claims that he told his story to another trooper. Trooper Jones testified that he was present throughout the encounter. During the traffic stop, Appellant had failed to mention anything about his attempts to evade an aggressive driver. Whether the veracity of Appellant’s story would have resulted in a different outcome to this matter is irrelevant for our purposes on review. The trial judge clearly assessed the credibility of the trooper and the Appellant and then sustained the charge. Since this Panel is afforded no such opportunity to make credibility assessments, we shall defer to the decision of the trial judge. See Cullen v. Tarini A.3d No. 09-224 slip op. at 7 (R.I. March 7, 2011) (holding that great weight is

accorded to credibility determinations made by the judge at trial.) Therefore, we find no reversible error.

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. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

DATE

April 28, 2011