

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF GLOCESTER

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:
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v.

C.A. No. T11-0077

JOHN J. QUINN

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED
12 MAR -7 AM 10:49

DECISION

PER CURIAM: Before this Panel on February 29, 2012—Judge Almeida (Chair, presiding), Magistrate Goulart, and Magistrate Noonan, sitting—is John J. Quinn’s (Appellant) appeal from a decision of Judge Ciullo (trial judge), sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On July 29, 2011, an officer of the Glocester Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on December 2, 2011.

On the day of the citation, the officer was on routine patrol on Putnam Pike in Glocester when he first observed the Appellant. (Tr. at 1.) The Appellant was heading westbound, and the officer was traveling eastbound. The officer’s radar unit was set to obtain speeds of passing vehicles while the officer’s patrol car was in motion.

The officer’s radar unit registered a reading of the Appellant’s vehicle traveling sixty-three (63) miles per hour (mph). Id. The speed limit on Putnam Pike in that area was thirty-five (35) mph. The officer reversed his course to pursue the Appellant. Shortly after his pursuit, the

officer caught up with the Appellant and conducted a traffic stop. At the conclusion of the stop, the officer cited the Appellant for the aforementioned violation of the motor vehicle code. At trial, the officer testified that his radar unit was properly calibrated, and operating properly on the day the Appellant was stopped. Id. The officer also stated that he was trained at the police academy in radar unit operation in 1998. (Tr. at 1-2.)

After the officer concluded his testimony, the Appellant questioned the officer regarding the accuracy of the officer's radar unit. (Tr. at 2.) Appellant also questioned the officer regarding the effect hills and uneven terrain have on radar units operation. However, the trial judge determined that such questioning was not relevant. (Tr. at 4.)

Thereafter, the trial judge sustained the charge against the Appellant. (Tr. at 5.) In sustaining the charge, the trial judge made several findings of fact. Specifically, the trial judge found that the officer's radar unit was properly calibrated at the time the officer stopped the Appellant. Id. The trial judge also determined that the officer was trained in the operation of radar units. Id. Appellant timely filed this appeal.

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 judge's decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the record. Appellant contends that the officer's trial testimony fails to satisfy the prevailing standard for the admissibility of speed readings set forth in State v. Sprague, 113 R.I. 351, 322 A.2d 36 (1974). Specifically, Appellant argues that the officer's testimony regarding his use of the moving radar was inadmissible.

In Sprague, our Supreme Court held that a radar speed reading—regardless of whether the reading is from a moving or stationary unit—is admissible into evidence upon a showing that “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method,” and upon “testimony setting forth [the Patrolman’s] training and experience in the use of a radar unit.” Sprague, 113 R.I. at 357, 322 A.2d at 39-40. Here, the requirements of Sprague were properly set forth during Appellant’s trial. The officer explained that the radar unit had been calibrated “within a reasonable time and by an appropriate method” and did testify that he possessed “training and experience in the use of a radar unit.” Sprague, 113 R.I. at 357, 322 A.2d at 40.

Having reviewed the record in its entirety, it is clear that there was sufficient evidence presented by the officer to satisfy the standards set forth by our Supreme Court to properly introduce evidence of the speed of Appellant’s vehicle. Based on the testimony provided by the officer to the trial judge, the members of this Panel find that the trial judge’s decision is not erroneous in view of reliable, probative, and substantial evidence on the record.

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 is not clearly erroneous in view of the reliable, probative, and substantial evidence on the record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.