

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

ABDUL AFRIFA

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C.A. No. T11-0083

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STATE OF RHODE ISLAND  
TRAFFIC TRIBUNAL  
FILED

DECISION

PER CURIAM: Before this Panel on January 4, 2012—Judge Ciullo (Chair, presiding), Judge Parker, and Magistrate DiSandro, sitting—is Abdul Afrifa’s (Appellant) appeal from a decision of Magistrate Goulart (“trial magistrate”), 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 October 8, 2011, Trooper Felomina (Trooper) of the Rhode Island State 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 14, 2011.

At the trial, the Trooper testified that he was on routine patrol on Route 95 in Cranston when he saw the Appellant’s vehicle approach from behind him. (Tr. at 1.) Once the Appellant passed the Trooper, the Trooper positioned his cruiser behind the Appellant. The Trooper, using his radar unit, determined that the Appellant was traveling seventy-nine miles per hour. Id. While following the Appellant, the Trooper also determined the speed of the Appellant by following the Appellant’s vehicle. Using this method, the Trooper determined that the Appellant

was traveling sixty-five miles per hour. Id. The speed limit in the area was fifty-five miles per hour. Id.

After following the Appellant for approximately a half-mile, the Trooper activated his overhead lights. Appellant pulled over, and the Appellant was cited for the speeding violation.<sup>1</sup>

After arraignment, the matter was scheduled for trial. At trial, the Appellant argued that the Trooper had another motorist pulled over shortly before the Trooper stopped the Appellant, and the Trooper was not in a lane of travel as previously testified by the Trooper. It was the Appellant's contention that the Trooper could not have observed the Appellant speeding because of his positioning on the side of the road. Appellant also contested the fact that he was speeding. Appellant asserted that due to heavy traffic, he was incapable of traveling at a speed above the posted speed limit. At the trial, Appellant also wanted to introduce the video of the traffic stop, which Appellant contended the Trooper had. However, the Appellant did not submit any discovery requests to the State before the trial. As such, the trial magistrate was left to examine the testimony before him.

After both parties were given an opportunity to present evidence, the trial magistrate determined that the Trooper was a credible witness. The trial magistrate accepted the Trooper's testimony that his radar unit was properly calibrated, and also that the Trooper followed the Appellant for a sufficient distance to adequately determine the Appellant's speed. In his decision, the trial magistrate specifically rejected the Appellant's version of events, finding them not credible. At the close of his bench decision, the trial magistrate sustained the violation. The trial magistrate imposed a minimum fine and court costs.

Aggrieved by the trial magistrate's decision, the Appellant timely filed this appeal.

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<sup>1</sup> The Trooper cited the Appellant for traveling sixty-five miles per hour.

### 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 contends that the trial magistrate’s decision was erroneous in view of the reliable, probative, and substantial evidence on the whole record. Appellant also contends that the trial magistrate’s decision was characterized by an abuse of discretion. Specifically, Appellant argues, as he did at trial, that the Trooper was on the side of the highway with another vehicle when the Appellant drove past him. In the alternative, Appellant asks for this matter to be remanded so that he may present further evidence to the trial magistrate.

Appellant appears before this Panel essentially attempting to litigate a matter that was already heard before the trial magistrate. In Link, our Supreme Court held that this Panel lacks the ability to weigh the credibility of witnesses and the evidence. 633 A.2d at 1348. Instead, this Panel’s review is confined to the record before it.

Here, the trial magistrate issued a lengthy and well reasoned decision. The decision specifically recalled parts of each witness’s testimony. The trial magistrate made findings of credibility of the witnesses. After taking into account all the evidence, the trial magistrate made his decision to sustain the charge.

In addition, the Appellant had a trial where he was allowed to present evidence, cross-exam the Trooper, and call witnesses. The Appellant appears before this Panel asking for another opportunity to present evidence to the trial magistrate. However, the Appellant did not comply with our rules of procedure regarding discovery prior to his trial date and did not receive a copy of the video he seeks to introduce into evidence. See Traffic Trib. R. P. 11(b). This Panel concludes that the Appellant should not be afforded a second opportunity to present

evidence. Our rules of procedure and judicial economy would not allow for such a result. The Appellant's opportunity to present evidence has passed.

### 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 erroneous in view of the reliable, probative, and substantial evidence on the whole record or characterized by abuse of discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.