

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

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:
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v.

C.A. No. T12-0002

PER WYRSCH

DECISION

PER CURIAM: Before this Panel on February 1, 2012—Magistrate Goulart (Chair, presiding), Judge Ciullo, and Judge Parker, sitting—is Per Wyrsh’s (Appellant) appeal from a decision of Magistrate DiSandro (trial magistrate), sustaining the charged violation of G.L 1956 § 31-22-22, “Safety belt use--Child restraint.” Appellant also appeals the trial magistrate’s decision to hold the Appellant in contempt of court. Appellant appeared before this Panel pro se. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On October 10, 2012, a trooper from 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 January 4, 2012.

On the day Appellant was cited the Appellant was traveling northbound on Church Street in Pawtucket. (Tr. at 3.) The trooper was traveling in the same direction and was directly behind the Appellant. While behind the Appellant, the trooper witnessed the Appellant move from the right lane to the left lane and then make a right-hand turn from the left lane onto George Street. Also during this time, the trooper observed Appellant not wearing a seatbelt. Id.

After witnessing several violations of the motor vehicle code, the trooper conducted a traffic stop of the Appellant. At the conclusion of the stop, the trooper cited the Appellant for the seatbelt violation. (Tr. at 4.). However, the trooper did not cite the Appellant for the turn the Appellant originally made onto George Street.

At the trial, the Appellant cross-examined the trooper's ability to recall certain facts from the traffic stop. Earlier in his testimony, the trooper identified the Appellant's vehicle as a gold Mercury SUV with registration number 613-150. However, Appellant contended that he owned a gold Mercedes SUV with registration number 613-150. It was the Appellant's contention that the trooper's inability to properly recall the make of his vehicle lessened the trooper's credibility. (Tr. at 5.) Additionally, the Appellant contended that the trooper was not capable of observing whether Appellant was wearing a seatbelt because his rear windows were tinted.

Following the Appellant's questioning of the trooper, the Appellant engaged in an exchange with the trial magistrate where the Appellant accused the trooper of lying under oath. After being warned about being held in contempt of court, the Appellant scoffed at the warning. Due to the Appellant's actions, the trial magistrate held the Appellant in contempt of court and fined him five hundred dollars. (Tr. at 7.)

After holding the Appellant in contempt of court, the trial magistrate sustained the charge violation. (Tr. at 8.) In sustaining the violation, the trial magistrate determined that the Appellant was not a credible witness. In his decision, the trial magistrate summarized the trooper's testimony, including the facts pertinent to sustaining the seatbelt violation. In addition to the contempt of court fine, the trial magistrate fined the Appellant eighty-five dollars for the seatbelt violation. 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 contends that the trial magistrate’s decision to sustain the violation was an abuse of discretion. Specifically, Appellant argues that the trial magistrate’s decision to credit the trooper’s testimony over the Appellant’s testimony was done in error. Additionally, Appellant contends that the trooper’s misidentification of the make of Appellant’s vehicle is fatal to the prosecution’s case in chief. Moreover, Appellant argues that the trial magistrate’s decision to hold the Appellant in contempt of court was an abuse of discretion.

This Panel’s review of the record is limited in scope. This Panel is not empowered to weigh the credibility of witnesses and the evidence. Link, 633 A.2d at 1348. However, this Panel is empowered to review the record for—among other things—an abuse of discretion made by the trial magistrate. “The term “discretion” imports action taken in the light of reason as applied to all the facts and with a view to the rights of all the parties to the action while having regard for what is right and equitable under the circumstances and the law.” Hartman v. Carter, 121 R.I. 1, 4, 393 A. 2d 1102, 1105 (1978); (citing Strzebinska v. Jary, 58 R.I. 496, 193 A. 747 (1937)). A trial magistrate abuses his or her discretion when a judgment is “characterized by arbitrary determination, capricious disposition, whimsical thinking, or idiosyncratic choice.” Greenleaf v. Massachusetts Bay Transp. Authy., 494 N.E.2d 402 (Mass. App. Ct. 1986).

Having reviewed the entire record before it, this Panel cannot conclude that the trial magistrate abused his discretion. The trial magistrate neither misconceived nor overlooked any relevant evidence. See United States v. Nguyen, 542 F.3d 275, 281 (1st Cir. 2008) (The Court held that an abuse of discretion occurs “when a relevant factor deserving of significant weight is

overlooked, or when an improper factor is accorded significant weight, or when the court considers the appropriate mix of factors, but commits a palpable error of judgment in calibrating the decisional scales.”). The trial magistrate specifically rejected the Appellant’s arguments relating to the identification of his vehicle and the trooper’s ability to observe the Appellant not wearing a seatbelt, which are the same arguments the Appellant made to this Panel. To the contrary, the trial magistrate specifically credited the trooper’s testimony, which was a basis for sustaining the violation.

Similarly, the trial magistrate’s decision to hold the Appellant in contempt of court was not an abuse of discretion. “The authority to find a party in civil contempt is among the inherent powers of our courts.” Now Courier, LLC v. Better Carrier Corp., 965 A.2d 429, 434 (R.I. 2009). Great deference will be afforded to a trial justice’s contempt ruling. See Town of Coventry v. Baird Properties, LLC., 13 A.3d 614, 621 (R.I. 2011). The purpose of civil contempt is to “coerce the contemnor into compliance with [a] court order” Now Courier, LLC, 965 A.2d at 434 (quoting Gardiner v. Gardiner, 821 A.2d 229, 232 (R.I. 2003)).

Here, the trial magistrate instructed the Appellant that his behavior towards the Court and the prosecution would not be tolerated. The trial magistrate specifically ordered the Appellant to correct his behavior. Instead, the Appellant scoffed at the order from the trial magistrate. It was this behavior that the trial magistrate determined the Appellant was in contempt of court. Having reviewed the exchange between the trial magistrate and the Appellant, this Panel cannot conclude that he abused his discretion in concluding that the Appellant was in contempt of court.

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 decisions were not an abuse of discretion. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violations sustained.