

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF CRANSTON

:
:
:
:
:

v.

C.A. No. T12-0018

LOUIS DEPINA

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED
12 AUG 20 AM 9:50

DECISION

PER CURIAM: Before this Panel on June 13, 2012—Chief Magistrate Guglietta (Chair, presiding), Judge Almeida, and Magistrate DiSandro, sitting—is Louis Depina’s (Appellant) appeal from a decision of Magistrate Noonan (trial magistrate), sustaining the charged violation of G.L. 1956, § 31-3-1, “Operation of unregistered vehicle.” Appellant was represented by counsel before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

Facts and Travel

On November 27, 2011, Officer James McQuinn (Officer McQuinn) of the Cranston Police Department charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on March 6, 2012.

At trial, Officer McQuinn was routine patrol when he received a report of street racing on Niantic Avenue in Cranston. (Tr. at 2.) Officer McQuinn responded to the area and observed twenty to twenty-five vehicles racing eastbound towards Reservoir Avenue. (Tr. at 3.) Officer McQuinn activated his overhead lights in attempt to break up the drag racing. While so doing, Officer McQuinn noticed one vehicle attempting to exit the Lang’s Bowl-A-Rama parking lot. Officer McQuinn pulled in front of the vehicle, blocking its path.

Officer McQuinn conducted an investigation of the vehicle and its occupants. During the investigation, Officer McQuinn noticed that the vehicle had an Indiana dealer's license plate. The vehicle, however, was not registered and was last registered in the State of Rhode Island. (Tr. at 5.) The officer then spoke with his supervisor, Sergeant Dutra, and determined that the dealer's license plate was not registered to the vehicle and that the plate was being used improperly. Id. Officer McQuinn then concluded that the operator was not using the vehicle for a commercial or business reason at the time it was being operated by the Appellant.

Officer McQuinn based this conclusion on his conversation with Appellant. The officer determined—based on this conversation—that the vehicle was being used “for normal [] traffic.” Id. Officer McQuinn found it significant that Appellant did not have any paperwork on him that indicated the vehicle was being transported for a business purpose.

On cross-examination, Officer McQuinn stated that he was unable to verify the license plate and the plate's registration after running several checks. The officer again stated that the Appellant told the officer that he was using the plate not for business or transportation purposes, but for normal driving. (Tr. at 8.)

After the officer completed his testimony, Appellant testified on his own behalf. (Tr. at 9.) Appellant stated that he presented Officer McQuinn with a valid registration for the plate. Appellant then stated that he informed Officer McQuinn that he was a dealer working for Specialty Auto Sales—the company to whom the plate was registered. Appellant then admitted that he was not conducting business at the time he was stopped, but was instead passing through the area and stopped to observe the racing. (Tr. at 10.) However, Appellant stated that he was driving the car home to perform work on it the next day. (Tr. at 12.)

After both parties rested, the trial magistrate issued his decision sustaining the charged violation. The trial magistrate found the officer's testimony to be truthful and credible. The trial magistrate determined that Appellant was knowingly operating an unregistered vehicle based upon Officer McQuinn's testimony, which the trial magistrate adopted as his findings of fact. (Tr. at 13.)

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 magistrate's decision was in violation of statutory provisions and not supported by the reliable, probative, and substantial evidence on the whole record. Specifically, Appellant argues that the trial magistrate committed error because Appellant was operating the vehicle with a dealer's plate at the time of the violation; thus, precluding him from registering the vehicle pursuant to the laws of this State.

Appellant was cited for violating § 31-3-1, which states "[i]t is a civil violation for any person to operate, or for an owner knowingly to permit to be operated, upon any highway any vehicle of a type required to be registered under this chapter." § 31-3-1. However, G.L. 1956 § 31-3-2(a), specifically exempts vehicles operated by dealers from the registration requirement of § 31-3-1. See also G.L. 1956 31-3-20(a) (A dealer owning any vehicle of a type otherwise required to be registered under this chapter, or any bona fide employee of a dealer may operate or move the vehicle upon the highways for any purpose without registering the vehicle.).

A necessary precondition to operating an unregistered vehicle with a dealer plate is that the dealer plate itself be registered. Here, Officer McQuinn stated that he ran several checks on the registration of Appellant's dealer plate—all of which were unable to determine if the plate

was registered. It was only after running these checks to determine if the plate was registered that Officer McQuinn cited the Appellant for violating § 31-3-1. Appellant's own testimony failed to rebut Officer McQuinn's testimony that the dealer plate was, in fact, not registered. Notably, the trial magistrate adopted Officer McQuinn's testimony as his findings of fact, and he also determined that the officer's testimony was credible and truthful. (Tr. at 13); see also Link, 633 A.2d at 1348 (This Panel's review is limited to determine whether the trial magistrate's decision was supported by the legally competent evidence.). At the time Appellant was stopped, Officer McQuinn found that the Appellant was operating a vehicle that was unregistered and the officer further determined that the dealer plate affixed to the vehicle was also unregistered. Therefore, Appellant was knowingly operating an unregistered vehicle in violation of § 31-3-1. Contrary to Appellant's assertions, this Panel finds that the trial magistrate's decision to sustain the charge was supported by the 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 magistrate's decision is not violation of statutory provisions and was supported by the reliable, probative, and substantial evidence on the whole record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.