

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF WARREN

v.

HEIDI JAMIEL

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C.A. No. T12-0052
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STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED

DECISION

PER CURIAM: Before this Panel on September 19, 2012—Magistrate Noonan (Chair, presiding), Judge Almeida, and Magistrate Goulart sitting—is Heidi Jamiel’s (Appellant) appeal from a decision of Administrative Magistrate Cruise, sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to traffic control devices.” The Appellant was represented by counsel before this Panel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On May 31, 2012, an officer from the Barrington Police Department (Officer) conducted a traffic stop on “County Road at Rumstick.” (Tr. at 6.) Appellant was issued a citation for the aforementioned motor vehicle offense. Appellant contested the charge, and the matter proceeded to trial on July 30, 2012.

The trial commenced with the officer testifying that he “. . . was [at] a stationary traffic post on County Road.” (Tr. at 1.) The officer stated that he observed a car drive through a red light at County Road and Rumstick Road in Barrington. (Tr. at 2.) He then conducted a traffic stop of the vehicle. At trial, the officer testified that since he was not directly in front of the traffic light, he made an assumption about the light that was facing the Appellant by observing the light for the traffic going in the opposite direction. After

being questioned about calibration, to show that the lights were working on that day, the officer responded by stating, “[w]e go on the assumption that the lights are working.” (Tr. at 5.) Thereafter, the Appellant testified that the light was yellow when she proceeded through it. (Tr. at 11.)

At the close of evidence, the trial judge recounted the aforementioned facts in his decision. In rendering his decision, the trial judge determined that the light was, in fact, red when the Appellant drove through it based on the officer’s testimony. The trial judge found it significant that the officer could see the light from the point where he was stationed. The judge found the officer credible and adopted the officer’s testimony. In summation, the trial judge sustained the violation. (Tr. at 18.) 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 decision made by the trial judge was against the evidence presented. In particular, Appellant contends that the charge cannot be imposed since the officer was at a location where he could not view the light and only based the traffic stop based on an assumption from a viewpoint from the other side of the traffic light. Appellant also contends that there is no evidence of calibration to prove the

color of the traffic light in the direction the Appellant was coming from at the time of the alleged infraction.

In Link, our Supreme Court made clear that this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge concerning the weight of the evidence on questions of fact.” Link, 633 A.2d at 1348 (citing Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). As the members of this Panel did not have an opportunity to view the live trial testimony of the witnesses, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the witnesses.] [The trial judge] listened to [their] testimony [and] . . . determine[ed] . . . what to accept and what to disregard[,] . . . what . . . [to] believe[] and disbelieve[.]” Environmental Scientific Corp., 621 A.2d at 206.

Here, Appellant argues that the evidence elicited at trial was insufficient to sustain the violation. Appellant contends that the officer could not see the light change to red from his viewpoint. However, Appellant’s arguments relate to questions of fact that were heard and weighed by the trial judge at Appellant’s trial. This Panel’s review is limited to determining whether the trial judge made an error in law or misapplied the evidence. See Link, 633 A.2d at 1348 (our Supreme Court held that this Panel’s review is limited in scope). Confining our review of the record to its proper scope, this Panel is satisfied that the trial judge did not abuse his discretion. After hearing all of the evidence, the judge concluded that all of the elements of the violation were met and the judge went on to state that “. . . it’s clear that the officer could see the light from his point based on the – his [sic] testimony” (Tr. at 18.) The judge went on to state that “I’m going to adopt the testimony of the officer in my findings of fact. I find him credible, and I’m going to

sustain the charge.” Id. The trial judge’s decision to sustain the charged violation is supported by legally competent evidence—the testimony of the officer—which the trial judge chose to credit over the Appellant’s.

Additionally, even though there was no calibration of the traffic light to ensure it was properly working that day, there is a presumption of regularity to which we must adhere. State v. Piscopio, 366 A.2d 146, 147 (R.I. 1976) (holding that the presumption of regularity becomes operative in cases of this kind upon proof of the mere fact of the existence of a traffic control device that is supported by the authorities). Our Supreme Court has determined that there exists a presumption of regularity as to the official nature and proper placement of traffic control devices in civil cases. Id. The presumption of regularity is available to establish essential elements in a case involving a violation of the Motor Vehicle Code Act. State v. Cooper, 322 A.2d 836, 837 (N.J. Super. App. Div. 1974). Objects of common and conventional size, shape, and appearance such as stop signs, traffic signals and devices, safety isles, and pavement markings placed on the public streets and highways shall be presumed to have been lawfully erected, placed and maintained. Id. Law enforcement officers should be allowed to make this presumption. It would be more than is required for us to require officers to ensure and inspect traffic lights are working before they issue a traffic violation.

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 was not an abuse of discretion or affected by other error of law. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.