

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

TOWN OF TIVERTON

v.

WILLIAM SILVIA, JR.

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C.A. No. T12-0059
12305500111

STATE OF RHODE ISLAND
TRAFFIC TRIBUNAL
FILED
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DECISION

PER CURIAM: Before this Panel on October 17, 2012—Judge Almeida (Chair, presiding), Judge Parker, and Magistrate Noonan, sitting—is William Silvia, Jr.’s (Appellant) appeal from a decision of Administrative Magistrate Cruise (trial judge), sustaining the charged violation of G.L. 1956 § 31-16-5, “Turn signal required.”¹ Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On May 29, 2012, an Officer of the Tiverton Police Department (Officer) charged Appellant with the aforementioned violation of the motor vehicle code. Appellant contested the charge, and the matter proceeded to trial on August 10, 2012.

At trial, the Officer testified that on the night of the violation, he was posted on the southbound lane of the Sakonnet River Bridge, responding to an accident. (Tr. at 1.) The Officer’s attention was drawn to the Appellant after hearing “. . . an extreme[ly] loud noise from the exhaust pipes [of Appellant’s motorcycle.]” Id. The Officer left his post and stopped the vehicle on the Portsmouth side of the bridge. Id. While pursuing the Appellant, the Officer observed the Appellant “. . . swerv[e] in and out of traffic without using a turning signal.” Id.

¹ In addition to the charged violation of § 31-16-5, Appellant was also charged with violating § 31-23-13, “Muffler violation.” However, this violation was dismissed at trial and is not presently before this Panel on appeal.

At the conclusion of the stop, the officer cited the operator—identified as the Appellant at trial—for muffler violation and turn signal required. Id.

Appellant then presented his case in chief. (Tr. at 2.) Appellant testified traffic was at a stand-still when he decided to move between lanes. Id. He further testified that instead of using his turn signal on his vehicle, he gave a hand signal near the Route 24 Island Park exit in Portsmouth. Id. Appellant then entered into evidence a photograph of the area where the traffic-stop occurred. Id.

The trial judge adopted the Officer's testimony and sustained the charged violation. (Tr. at 3.) Aggrieved by the trial judge's decision, the Appellant timely filed this appeal.

Standard of Review

Pursuant to G.L. 1956 § 8-18-9, any person may appeal an adverse decision from a municipal court and seek review from this Panel pursuant to the procedures set forth in § 31-41.1-8. Section 31-41.1-8 states that 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 judge's decision was made in violation of statutory provisions and affected by error of law. Specifically, Appellant contends, as he did at trial, that the Officer, a Tiverton Police officer, was without authority to stop the Appellant in Portsmouth.

By law, "an officer's authority may not be readily extended beyond the limits of the municipality" State v. Hagen, 819 A.2d 1256, 1258 (R.I. 2003). This limitation, however, is considered by our Supreme Court to be "archaic," and the "jurisdictional borders confining the authority of the state's various police departments . . . have become blurred by time and necessity." Id.

However, our General Assembly has only prescribed two circumstances when a police officer may leave his jurisdiction to pursue a suspect. These exceptions include the emergency police power, pursuant to G.L. 1956 § 45-42-1, and arrest after close pursuit by officers from cities or towns, pursuant to G.L. 1956 § 12-7-19. See State v. Ceraso, 812 A.2d 829, 833 (R.I. 2002) (There are two exceptions to this general rule that the authority of a local police department is limited to its own jurisdiction. “First, when the police are in ‘hot pursuit’ of a suspect, they may cross into another jurisdiction pursuant to § 12-7-19.”). Neither of these statutes is invoked by the facts of this case.

Under the “emergency police power” exception established by § 45-42-1,² the police from one jurisdiction may exercise authority in another jurisdiction in emergency situations. Id. (citing State v. Locke, 418 A.2d 843, 847 (R.I. 1980), and Cioci v. Santos, 99 R.I. 308, 315, 207 A.2d 300, 304 (1965)). Applying the tools of statutory construction to determine the precise meaning of § 45-42-1, the Ceraso Court explained that the “[g]eneral Assembly [in passing § 45-42-1] clearly envisioned situations where one police department would need the assistance of another police department and would need the assistance for emergency situations” Id. at 834. The Court stressed that the conferral of jurisdiction upon a law enforcement officer from another municipality need not be formal, and that the officer upon whom jurisdiction is conferred need not “engage in some stylized ritual in order to officially accept” the “authority, powers, duties, privileges, and immunities” of the conferring police agency. Id. at 835. “[I]n handling

² Section 45-42-1 reads:

When the police chief of a city or town within the state or his or her designee requests emergency police assistance from another police department within the state, the officers responding to the request shall be subject to the authority of the requesting chief and have the same authority, powers, duties, privileges, and immunities as a duly appointed police officer of the city or town making the request, until the requesting chief of police discharges and releases the assisting police officers to their own departments.

emergency situations in the safest and most efficient manner possible,” it is sufficient that the officer upon whom jurisdiction is conferred expressed a willingness to “sav[e] lives and property” in the conferring jurisdiction, or that an officer of the conferring jurisdiction requested such assistance and assistance was rendered. Id.

Rhode Island courts have also held that where an officer is in “close pursuit,” he or she is authorized to make an arrest outside his or her jurisdiction, so long as the original observations of violations leading to the pursuit arose within his or her own jurisdiction. Section 12-7-19 states that:

“Any member of a duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit of a person in order to arrest him or her on the ground that he or she has violated the motor vehicle code in the other city or town shall have the same authority to arrest and hold in custody the person as members of a duly organized municipal peace unit of any city or town have to arrest and hold in custody a person on the ground that he or she has violated the motor vehicle code in any city or town.”

Under the “hot pursuit” exception established by § 12-7-19, the police may cross into another jurisdiction when in “hot pursuit” of a suspect. The Ceraso Court made clear that when a police officer leaves his or her jurisdiction, then that officer must obtain probable cause while in the officer’s jurisdiction and then subsequently arrest the fleeing person. Id.

Here, an emergency situation was not taking place, and Appellant was never placed under arrest. Neither of the two statutory exceptions applies in this case. Rather, Appellant was simply cited for a civil infraction of the motor vehicle code. As a result, under existing law, the Officer was without authority to enter Portsmouth and cite the Appellant for the aforementioned violation. Hagen, 819 A.2d at 1258. In so deciding, this Panel is mindful that in the absence of a

statutory or judicially recognized exception, the authority of a local police department is limited to its own jurisdiction. Ceraso, 812 A.2d at 833 (citing Page v. Staples, 13 R.I. 306 (1881)).

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 in violation of statutory provisions and affected by error of law. Substantial rights of Appellant have been prejudiced. Accordingly, Appellant's appeal is granted, and the charged violation dismissed.