

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF CRANSTON

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:
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v.

**C.A. No. T12-0077
07402040284**

CIARA IRACE

DECISION

PER CURIAM: Before this Panel on March 13, 2013—Chief Magistrate Guglietta (Chair, presiding), Magistrate DiSandro, and Magistrate Goulart sitting—is Ciara Irace’s (Appellant) appeal from a decision of Magistrate Noonan (trial judge), sustaining the charged violation of G.L. 1956 § 31-47-9, “Operating a motor vehicle without insurance.” Appellant was represented by counsel before this Panel. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On July 24, 2012, an Officer 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 November 13, 2012.

This violation arose from an automobile accident that occurred on Broad Street in Cranston. (Tr. at 1.) At trial, the Officer testified that he responded to the scene of the accident around 3:00 a.m. Id. The officer stated that upon his request, Appellant failed to provide evidence of valid insurance. Id.

Thereafter, the Appellant testified that she hired an attorney to represent her during the trial, but the attorney was not present. The judge proceeded by stating that Appellant’s

“[attorney ha[d]n’t entered his appearance on [her] behalf” Id. Appellant then proceeded to have the case continued since her lawyer was not present. Id. The trial judge answered by stating, “I can’t continue it because the officer is here.” Id. The judge then sustained the violation and imposed sentence. Id. 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 she was prejudiced by the judge’s decision to proceed with the trial despite her request for a continuance. Specifically, Appellant argues that she should have been given an opportunity to present her case with the assistance of her attorney. We agree.

“[A] motion for a continuance is addressed to the sound discretion of the trial judge. State v. Lanagan, 528 A.2d 310, 316 (R.I. 1987). “In reviewing the denial of a motion for a continuance [reviewing courts] look to the circumstances of each case to determine whether or not an abuse of discretion has taken place.” State v. Ucero 450 A.2d 809, 814 (R.I. 1982). “The trial justice will not have abused his or her discretion as long as some grounds supporting his or her decision appear in the record.” State v. Burnham, 58 A.3d 889, 898 (R.I. 2013).

In this case, the trial judge mistakenly believed that Appellant’s attorney did not enter his appearance. This mistaken belief prompted the judge to proceed with the trial despite Appellant’s attorney’s absence. The record reflects that the grounds the judge based his decision on were misinformed.¹ Accordingly, his decision could not be supported by the grounds, given that they were mistaken. Burnham, 58 A.3d at 898. Considering the nature of the charge, the

¹ After reviewing the record in its entirety, we note that Appellant’s attorney’s entry of appearance was entered at the time of trial.

attorney's entry of appearance, and the severe implications of the sentence, we are of the opinion that the trial judge abused his discretion to deny Appellant a continuance. See State v. Thomas, 936 A.2d 1278, 1281 (R.I. 2007) (when examining the ruling by a trial judge, the appellate court should ensure that the trial judge's discretion has been soundly exercised with just regard to what is right and equitable under the circumstances and the law).

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 to deny Appellant's request for a continuance did substantially prejudice Appellant. Accordingly, Appellant's appeal is hereby granted, in order to remand the case back to the trial court for proceedings consistent with this opinion.

ENTERED:

Chief Magistrate William R. Guglietta (Chair)

Magistrate Domenic A. DiSandro III

Magistrate Alan R. Goulart

DATE: _____