

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF WARWICK

:
:
:
:
:

v.

**C.A. No. T14-0051
14203505828**

ROBERT W. CHRISTIE

DECISION

PER CURIAM: Before this Panel on November 19, 2014—Judge Almeida (Chair), Administrative Magistrate Cruise, and Magistrate Goulart, sitting—is Robert W. Christie’s (Appellant) appeal from a decision of Magistrate Noonan sustaining the charged violation of G.L. 1956 § 31-20-9, “Obedience to stop signs.” Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On July 10, 2014, an Officer of the Warwick Police Department charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on September 5, 2014.

At trial, the Officer testified that he was on patrol at the intersection of Evergreen and Pavilion when he witnessed a brown 2008 Buick Enclave with Rhode Island registration 997708 proceeding northbound on Evergreen Avenue. (Tr. at 1.) The Officer stated that he witnessed the motorist make a left-hand turn onto Pavilion Avenue without making a complete stop at the stop sign. (Tr. at 2.) Thereafter, the Officer testified that he initiated a traffic stop and issued the aforementioned violation. Id.

Subsequently, Appellant attempted to submit digital images on his phone as evidence that the Officer could not see his vehicle. Id. The images were never entered as exhibits, pursuant to

the Rhode Island Rules of Evidence. Id. The Appellant testified that based on the positioning of dense trees, the Officer did not have a clear view of his car. Id. The Appellant maintained that the Officer was positioned behind a fence and dense trees. (Tr. at 5.)

Thereafter, the trial magistrate asked the Officer if he could see Appellant's vehicle. (Tr. at 4.) The Officer responded that he was on specific enforcement of the intersection and parked in that location because he had a clear view of the intersection. Id.

After both parties were given an opportunity to present evidence, the trial magistrate issued a decision sustaining the charged violation. (Tr. at 5.) The trial magistrate found that the Officer positioned himself in a place where he could see the intersection because he was on specific enforcement of the intersection. Id. The trial magistrate found the Officer's testimony credible and sustained the charge. Id. Aggrieved by the trial magistrate's decision to sustain the charge, 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 trial magistrate’s decision is arbitrary or capricious because Appellant avers the trial magistrate failed to consider the photographs on his mobile phone.

The Rhode Island Rules of Evidence governs “all proceedings before the Traffic Tribunal.” RITT Rules of Procedure Rule 15(b). The Rhode Island Rules of Evidence explains that “all relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the constitution of Rhode Island, by act of congress, by the general laws of Rhode Island, by these rules, or by other rules applicable in the courts of this state.” R.I. R.

Evid. 402. Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” R.I. R. Evid. 401. “It is well settled law in this state that ‘decisions about the admissibility of evidence on relevancy grounds are left to the sound discretion of the trial justice; this Court will not disturb those decisions on appeal absent an abuse of discretion.’” State v. Carvalho, 892 A.2d 140, 148 (R.I. 2006) (quoting State v. Grayhurst, 852 A.2d 491, 505 (R.I.2004)).

In order to introduce a photograph into evidence, the photograph must be authenticated, meaning that the photograph “is received into evidence only after a witness with personal knowledge testifies that it is a true and accurate representation.” State v. Brown, 88 A.3d 1101, 1117 (R.I. 2014). Here, the Appellant’s photographs were not admitted into evidence because Appellant did not authenticate the photographs. See Tr. at 2; see also Brown, 88 A.3d at 1117.

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 Officer or Appellant, it would be impermissible to second-guess the trial judge’s “impressions as he . . . observe[d] [the Officer and Appellant] [,] 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.

After listening to the testimony, the trial magistrate determined that the Officer’s testimony was not only credible, but the testimony was also sufficient to sustain the charged

violation. “[The appellate court] [is] not privileged to assess the credibility of witnesses and may not substitute our judgment for that of the trial [magistrate] concerning the weight of the evidence on questions of fact.” Environmental Scientific Corp., 621 A.2d at 208 (quoting Liberty Mutual Insurance Co. v. Janes, 586 A.2d 536, 537 (R.I. 1991)). In his decision, the trial magistrate credited the Officer’s testimony that he parked his cruiser in a position where he could view the stop sign and the intersection. (Tr. at 5.) The trial magistrate concluded that he accepted the testimony of the Officer. The trial magistrate was “satisfied by clear and convincing evidence that the [city] ha[d] met its burden of proof in the case.” Id. Accordingly the trial magistrate found the Appellant guilty.

Confining our review of the record to its proper scope, this Panel is satisfied that the trial magistrate did not abuse his discretion, and his decision to sustain the charged violation is supported by legally competent evidence. Environmental Scientific Corp., 621 A.2d at 209 (The [appellate court] should give great deference to the [trial magistrate’s] findings and conclusions unless clearly wrong.).

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 was supported by the reliable, probative, and substantial evidence of record. Substantial rights of Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation sustained.

ENTERED:

Judge Lillian M. Almeida (Chair)

Magistrate Alan R. Goulart

DATE: _____

Note: Administrative Magistrate R. David Cruise participated in the decision but resigned prior to its publication.