

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

:
:
:
:
:

v.

**C.A. No. T14-0053
14001513149**

ALLA HASSAN

DECISION

PER CURIAM: Before this Panel on February 25, 2015—Magistrate Abbate (Chair), Chief Magistrate Guglietta, and Magistrate DiSandro III, sitting—is Alla Hassan’s (Appellant) appeal from a decision of Magistrate Noonan (trial magistrate), sustaining the charged violation of G.L. 1956 § 31-15-11, “Laned roadways.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On April 18, 2014, Detective Adam Kenneth of the Rhode Island State Police Department (Detective) charged Appellant with the aforementioned violation of the motor vehicle code. The Appellant contested the charge, and the matter proceeded to trial on September 4, 2014.

At trial, the Detective testified that at approximately 9:55 in the morning on April 18, 2014, he was traveling south on Route 95, near the airport connector. (Tr. at 1.) The Detective stated that he was “traveling in the third lane of travel at approximately 65 miles per hour (mph).” Id. The surrounding traffic “was light and was traveling at approximately the same speed.” Id. The Detective testified that he observed a white SUV approximately 100 feet behind his vehicle in the fourth travel lane, also known as the high speed lane. Id. The Detective

observed a black Hyundai approaching the SUV in the high speed lane at a high rate of speed. Id. “The Hyundai traveled a very close distance to the SUV, a distance of less than one car length, remained behind [the SUV] for a short while, [and the Hyundai] moved side to side within the lane, appearing to want to pass.” Id. Thereafter, the Detective testified that the Hyundai “abruptly moved to the third lane of travel, passed the SUV at a high rate of speed, and abruptly cut back in front of the SUV, forcing the SUV to break quickly.” Id. The Detective added that the Hyundai changed lanes in “a dangerous manner.” Id. After passing the SUV, the Hyundai slowed down and continued to pass the Detective. Subsequently, the Detective initiated a traffic stop, and identified the driver as the Appellant by his Virginia driver’s license. Id. at 2.

The Appellant testified that he was not speeding when the violation took place. Id. The Appellant stated that as other drivers saw the Detective, they would “abruptly hit their breaks.” Id. The Appellant testified that he passed the Detective and while “it is not tasteful to pass a State Trooper. . . there was [not] anything necessarily illegal about [it].” Id. Thereafter, Appellant started to testify as to the rules in the driver’s manual. Id. The trial magistrate explained that the driver’s manual is not relevant and read Appellant the proper statute. Id. Subsequently, Appellant testified that he checked the mirrors and his blind spot, and used his blinker when he switched lanes. Id.

After hearing the testimony presented, the trial magistrate considered Appellant’s testimony, but noted that most of Appellant’s testimony focused on passing the Detective. Subsequently, the trial magistrate found the Detective’s testimony credible. The trial magistrate adopted the Detective’s testimony that Appellant dangerously changed lanes, and sustained the charge. Aggrieved by the trial magistrate’s decision, Appellant 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 contends that the trial magistrate’s decision to sustain the charged violation was made upon unlawful procedure, and was not supported by reliable, probative, and substantial evidence on the record. Specifically, Appellant maintains that the trial magistrate appeared late to court, which affected Appellant’s trial. Furthermore, Appellant contends that the Detective told Appellant he was stopped for passing a state trooper, which was not the violation on the ticket, and Appellant argues that the State did not prove the case by “clear and convincing” evidence.

Due Process

The Appellant argues that he was prejudiced at trial because the magistrate was late. Specifically, Appellant maintains that he did not have a fair opportunity to present his case.

Our Supreme Court has held that “a fair trial in a fair tribunal is a basic requirement of due process.” Davis v. Wood, 427 A.2d 332, 336 (R.I. 1981). The Rhode Island Supreme Court has explained that “the foundation of due process rests on an opportunity to be heard in a meaningful manner at a meaningful time.” Leone v. Town of New Shoreham, 534 A.2d 871, 874 (R.I.1987) (citing Brock v. Roadway Express, 481 U.S. 252 (1987)).

Here, Appellant had the “opportunity to be heard in a meaningful manner” at trial. Id.; see Tr. at 2-4. Specifically, Appellant testified that he was not speeding, and that he checked his mirrors and blind spot, and used his blinker when he switched lanes. (Tr. at 2-3.) Moreover, the trial magistrate explained to Appellant, “I’ve heard what you have said so far . . . and you don’t think you were speeding.” Id. at 4. Thereafter, the magistrate asked Appellant if there was

“anything else [he’d] like to say relative to . . . [the] laned roadway violation.” Id. The transcript from trial illustrates that Appellant not only had an opportunity to present his argument but also that the trial magistrate considered Appellant’s testimony prior to making his decision. Id. Thus, Appellant had a fair opportunity to present his case.

Evidence on the Record

The Appellant contends that the State did not prove its case by clear and convincing evidence.

This Panel is mindful that "[t]he appeals panel is limited to a determination of whether the hearing justice’s decision is supported by competent evidence." Marran v. State, 672 A.2d 875, 876 (R.I. 1996) (citing Link v. State, 633 A.2d at 1348). It is well-settled that credibility determinations are within the province of the hearing judge. Link, 633 A.2d at 1348. Consequently, this Panel will not substitute its own judgment for that of the trial magistrate. See § 31-41.1.8 (f).

Here, the Detective testified that he observed Appellant’s vehicle change lanes in “a dangerous manner.” (Tr. at 1.) Subsection (a) of § 31-15-11 provides in relevant part: “A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.” (Emphasis added.) The statute provides an exception to the general rule to allow motorists to cross over the double line in the event it is safe to do so. The record in this case illustrates that it was unsafe for Appellant to cross over the line. Marran, 672 A.2d at 876; see Tr. at 1 (Detective testifying that Appellant “dangerously” switched lanes).

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 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:

Magistrate Joseph A. Abbate (Chair)

Chief Magistrate William. R. Guglietta

Magistrate Domenic A. DiSandro, III

DATE: _____