

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

CITY OF PROVIDENCE

v.

ARMAIS G. KOCHAROV

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**C.A. No. T15-0001
07409121550**

DECISION

PER CURIAM: Before this Panel on March 18, 2015—Magistrate Goulart (Chair), Chief Magistrate Guglietta, and Magistrate Noonan, sitting—is Armais G. Kocharov’s (Appellant) appeal from a decision of Judge Parker (Trial Judge), sustaining the charged violations of G.L. 1956 § 31-3-18, “Display of plates”; § 31-3-1, “Operation of vehicles without evidences of registration”; and § 31-47-9, “Penalties—owner operating without insurance.” The Appellant appeared before this Panel pro se. Jurisdiction is pursuant to § 31-41.1-8.

Facts and Travel

On September 26, 2014, an Officer of the Providence Police Department (Officer), charged Appellant with the aforementioned violations of the motor vehicle code. The Appellant contested the “Display of plates” and “Operation of vehicles without evidences of registration” charges, and the matter proceeded to trial on January 6, 2015.¹

At trial, the Officer testified that on September 26, 2014, he was on patrol at Atwells Avenue and Dean Street. (Tr. at 3.) The Officer observed a red Infiniti, bearing Rhode Island registration “55446” and missing a front license plate, stopped at the intersection of Dean Street and Spruce Street. Id. The Officer conducted a motor vehicle stop and identified the operator as the Appellant. Id. The Officer asked the Appellant for his license and vehicle documentation,

¹ The “Penalties—owner operating without insurance” charge was dismissed prior to trial.

but the Appellant was unable to produce valid documents. Id. After scanning the registration, the Officer discovered the plate was last registered in 2008 to a green Dodge. Id. Thereafter, the vehicle was towed from the scene. Id.

On cross-examination, Appellant asked the Officer to confirm that he had given the Officer a bill of sale for the vehicle during the stop. Id. The Officer responded that he did not remember seeing the bill of sale. Id. Subsequently, the Appellant testified that he did provide the Officer with a bill of sale, and the Officer told him he had a few days to register the vehicle. Id. Thus, Appellant argued the unregistered vehicle charge should be dismissed. Id.

After hearing testimony from the Officer and Appellant, the trial judge found the Officer's testimony credible, and also noted that Appellant did not bring a bill of sale to the trial. Id. Based on the testimony, the Trial Judge found Appellant was in violation of operating a motor vehicle without registration and without a front license plate. Id. Aggrieved by the Trial Judge's decision, 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 Ins. 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 Envtl. 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

Transfer of Vehicles

On appeal, Appellant argues that the Trial Judge’s decision is clearly erroneous in light of the reliable, probative, and substantial evidence on the record. Specifically, the Appellant argues that the registration violation should be dismissed because he gave the Officer the bill of sale of the vehicle. Moreover, Appellant contends that he had a few days to register the vehicle because the vehicle was recently purchased.

Rhode Island General Law § 31-4-10 reads in pertinent part:

“(a) A person who transfers the ownership of a registered motor vehicle or trailer owned by him or her to another or who loses possession of it and who intends to transfer the registration of the motor vehicle or trailer to a newly acquired vehicle may, subject to other provisions of the title, operate the newly acquired motor vehicle or trailer for a period beginning from the date of transfer until five o'clock (5:00) p.m. of the second division of motor vehicles business day following the date of transfer within the period of which the transferred vehicle was registered, provided that the number plates issued upon registration of the transferred motor vehicle are attached to the newly acquired vehicle, and a true copy of the bill of sale is sent to the division of motor vehicles within twenty-four (24) hours of the transfer.

“(b) During these periods, any operator of a newly acquired vehicle shall carry an original copy of the bill of sale reciting the registration number to be transferred from the former vehicle to the newly acquired vehicle, the date of the sale or transfer, the make and identification number of the vehicle, and the signature and address of the seller. . . .” Sec. 31-4-10.

When a court examines an unambiguous statute, “there is no room for statutory construction and [the court] must apply the statute as written.” In re Denisevich, 643 A.2d 1194, 1197 (R.I. 1994). This statute provides that when a motorist acquires a new vehicle and intends to transfer the registration from a different *registered* motor vehicle, the motorist has “from the date of transfer until five o'clock (5:00) p.m. of the second division of motor vehicles business day following the date of transfer” to register the vehicle. Sec. 31-4-10 (emphasis added).

In this case, the license plate Appellant transferred to his new vehicle had not been registered since 2008. See Tr. at 3. Thus, although Appellant recently purchased his vehicle, the vehicle was not registered because at the time of the incident, the plate on Appellant’s vehicle was not registered to any car. See id.; see also § 31-4-10 (allowing motorists to transfer a vehicle from a *registered* vehicle to a new vehicle (emphasis added)).

Having reviewed the record in its entirety, it is clear that there was sufficient evidence presented by the Officer to satisfy the elements of the “Operation of vehicles without evidences of registration” charge. Rhode Island General Law § 31-8-1 states that “[n]o person shall operate . . . upon any highway . . . any vehicle required to be registered pursuant to this title unless there has been issued for it a valid registration card and unless there is attached to it and displayed on it . . . a valid registration plate.” Sec. 31-8-1. Under Rhode Island General Law § 37-8-1, it is a violation in Rhode Island for a driver to operate a vehicle without registration. See id.

The Trial Judge found in rendering his decision that the vehicle driven by the Appellant was unregistered. The Officer checked the status of the vehicle in his computer system and found the registration plates did not belong to a registered vehicle. See Tr. at 3; see also § 31-4-10. Based on the testimony provided by the Officer to the Trial Judge, the members of this Panel find that the Trial Judge’s decision on the registration violation was not an abuse of his discretion, nor did he make any errors of law.

Display of Registration Plates

Secondly, it is uncontested that there was only one registration plate on the vehicle. On appeal, the Appellant admits to not having a front plate, in violation of § 31-3-18. This section provides in pertinent part: “[r]egistration plates issued for a motor vehicle . . . shall be attached thereto one in the front and the other in the rear.” Sec 31-3-18 (a). Additionally, “[a]ny person who shall violate the provisions of this section shall be guilty of a violation and subject to a fine as enumerated in § 31-41.1-4.” Sec. 31-3-18 (c).

On appeal, Appellant makes no argument regarding the display of plates. In fact, Appellant states, “I was going to take the fault for the ‘no front plate’ because there was no front plate.” Rather, Appellant’s argument concentrates on the fact that he had a bill of sale at the time of the

stop. This Panel acknowledges that Appellant had a bill of sale but finds a bill of sale to be pertinent only when the driver is operating the vehicle with properly registered plates. This is not the case here, where the Appellant was operating the vehicle with only one unregistered plate.

Even had the Appellant argued that his plates were properly displayed, the weight of the evidence and the Officer's testimony led the Trial Judge to determine that Appellant was in violation of §31-3-18 (a). In Link, our Supreme Court established 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)). Accordingly, after a thorough examination of the record, this Panel concludes that the Trial Judge's decision on the display of plates violation was not erroneous and his decision to sustain the charged violation is supported by legally competent evidence.

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 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 violations sustained.

ENTERED:

Magistrate Alan R. Goulart (Chair)

Chief Magistrate William R. Guglietta

Magistrate William T. Noonan

DATE: _____