

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

JAMES HARRINGTON

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**C.A. No. T15-0040
15502502655**

DECISION

PER CURIAM: Before this Panel on February 27, 2019—Administrative Magistrate Abbate (Chair), Associate Judge Almeida, and Chief Magistrate DiSandro, sitting—is James Harrington’s (Appellant) appeal from a decision of Magistrate Alan R. Goulart (Trial Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violation of G.L. 1956 § 31-27-2.1, “Refusal to submit to a chemical test.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On August 20, 2015, Officer Gregory Tansey (Officer Tansey) of the North Kingstown Police Department conducted a traffic stop of Appellant’s motor vehicle. As a result of the stop, Officer Tansey issued Appellant a citation for the above-mentioned violation. *See* Summons No. 15502502655.

The matter proceeded to trial on October 9, 2015, and spanned two days, concluding on October 21, 2015. The Trial Magistrate sustained the charged violation, and the Appellant timely filed an appeal. The Appeals Panel of the Rhode Island Traffic Tribunal heard oral argument on April 20, 2016, and subsequently affirmed the Trial Magistrate’s decision.

Appellant appealed therefrom to the Sixth Division District Court, which remanded the matter to the Appeals Panel to determine whether the Trial Magistrate erred in declining to review a map of the area where the stop occurred, or to remand the matter to the Trial Magistrate for further findings of fact. The Appeals Panel then remanded the matter to the Trial Magistrate for further factual findings to be made on the issue of the location of the violation and the stop.

On October 25, 2018, the Trial Magistrate held a hearing for the limited purpose of allowing the Appellant to introduce additional evidence regarding the location of the violation. (Tr. at 3:17-20.) Appellant introduced a map entitled, “South County Tourism Council” (Map A), which the Trial Magistrate marked as Defendant Exhibit A. *Id.* at 11:22-12:20. The State objected to the introduction of Map A into evidence on authentication grounds. *Id.* at 13:4-14. In response, Appellant introduced a map published by Mass Marketing, Inc. (Map B) to authenticate Map A, which the Trial Magistrate marked as Defendant Exhibit B. *Id.* at 13:15-14:11. The State also objected to the introduction of Map B on authentication grounds. *Id.* at 14:12-20.

The Trial Magistrate sustained the State’s objection to Map B, specifically noting the language printed on Map B: “Our data have not been edited to ensure accuracy. We cannot guarantee complete authenticity.” *Id.* at 15:12-23. Although the Trial Magistrate admitted Map A into evidence, he did so stating, “I don’t think this is authentic at all, but I’m going to take it and I’m going to give it whatever weight I think it deserves, which is absolutely zero.” *Id.* at 20:13-16. Further, the Trial Magistrate went on to find that Map A “doesn’t show anything, quite frankly, . . . and it doesn’t really even provide me information as it relates specifically to the facts of this case.” *Id.* at 20:17-21. Therefore, the Trial Magistrate “continue[d] to be

satisfied, based on the trial testimony of Sergeant Mulligan, that the violation and the traffic stop occurred in the Town of North Kingstown. *Id.* at 20:22-21:3.

Subsequently, the Trial Magistrate reiterated his findings of fact on the record, accepting Sergeant Mulligan's trial testimony "to be true and credible[.]" *Id.* at 22:11-15. The Trial Magistrate further stated, "I am satisfied that the [maps] that [Appellant] provided to me do not, in any sense whatsoever, rebut [] my previous conclusion that this violation occurred in the Town of North Kingstown." *Id.* at 22:16-19. Thus, the Trial Magistrate sustained the charged violation. *Id.* at 24:1-4.

Thereafter, Appellant filed a timely appeal of the Trial Magistrate's decision. Forthwith is this Panel's decision.¹

II

Standard of Review

Pursuant to § 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;

¹ This Panel pauses to note that, as our Supreme Court stated in *Pelumi v. City of Woonsocket*, Appellant "has had his day in court—and then some! There comes a point when it is time to write 'the end' with respect to a particular piece of litigation, and that point has certainly been reached with respect to the instant case." *Pelumi v. City of Woonsocket*, 180 A.2d 840, 842 (R.I. 2018) (citing *Estate of Mitchell v. Gorman*, 970 A.2d 1, 6 (R.I. 2009) ("[I]t is time to bring this matter, at long last, to its conclusion.")) (emphasis in original).

- “(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 Mut. 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.” *Id.* (citing *Envtl. Sci. 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.” *Id.* Otherwise, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

On appeal, Appellant asserts that the Trial Magistrate’s decision sustaining the charged violation was “[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record;” and “[a]rbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion[.]” Sec. 31-41.1-8(f)(5)-(6). Specifically, Appellant maintains that the map admitted into evidence at trial establishes that the violation occurred in East Greenwich, rather than in North Kingstown, and therefore the violation must be dismissed.

Pursuant to Rule 15 of the Traffic Tribunal Rules of Procedure, the Rhode Island Rules of Evidence govern “all proceedings before the Traffic Tribunal.” Traffic Trib. R. P. 15(b). Rhode Island Rule of Evidence 402 provides that “all *relevant* evidence is admissible, except as otherwise provided by the Constitution of the United States, by the [C]onstitution of Rhode Island, by act of [C]ongress, by the [G]eneral [L]aws of Rhode Island, by these rules, or by other rules applicable in the courts of this state.” R.I. R. Evid. 402 (emphasis added). Relevant evidence is defined as “evidence having any tendency to make 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 that “the admissibility of evidence is within the sound discretion of the trial justice.” *State v. Grayhurst*, 652 A.2d 491, 504 (R.I. 2004). When reviewing a trial justice’s or magistrate’s evidentiary determination, “we will not conclude that a trial justice abused his or her discretion as long as some grounds to support the decision appear in the record.” *Id.* at 505 (quoting *State v. Pena-Rojas*, 822 A.2d 921, 924 (R.I. 2003)).

Based on a review of the record, it is clear that the Trial Magistrate did not err in excluding Map B from evidence because the Appellant did not provide an adequate foundation demonstrating the authenticity of Map B. *See* R.I. R. Evid. 901; *O’Connor v. Newport Hospital*, 111 A.3d 317, 323 (R.I. 2015) (“[A]uthentication and identification are regarded as a special aspect of relevancy; evidence is relevant only if it is in fact what the party seeking its admission claims it to be.”). The Trial Magistrate specifically noted on the record the language printed on Map B, produced by Mass Marketing, Inc., which explicitly stated: “We cannot guarantee complete authenticity.” (Tr. at 15:12-18.)

Similarly, the Trial Magistrate did not err in according Map A little weight. Although the Trial Magistrate admitted Map A into evidence, Appellant did not lay an adequate foundation

authenticating Map A. *See* R.I. R. Evid. 901; *O'Connor*, 111 A.3d at 323. Indeed, “[t]he rule is well established that maps illustrating the scenes of the commission of a crime and the relative location of streets or objects, if *shown to be reasonably accurate*, are admissible in evidence in order to enable the [fact-finder] properly to understand and apply the evidence to the particular case.” *State v. Greene*, 74 R.I. 437, 443-44, 60 A.2d 711, 715 (1948) (emphasis added). Here, Appellant proffered nothing other than his own testimony that the violation occurred in East Greenwich to demonstrate that Map A is a fair and accurate representation of the area. *See id.*; *see also State v. Phannavong*, 21 A.3d 321, 324 (R.I. 2011) (finding that trial justice did not err in excluding defendant’s map because the document “lack[ed] even minimal indicia of reliability” as it was bolstered only by “defendant’s opinion that the map is an accurate depiction”). Therefore, the Trial Magistrate did not err in according Map A no weight. *See id.*

As this Panel reviews a trial magistrate’s decisions concerning the weight of evidence under an abuse of discretion standard, we cannot find that the Trial Magistrate abused his discretion in excluding Map B or according Map A no weight based on the facts contained within the record. *See Link v. State*, 633 A.2d at 1348. Accordingly, this Panel concludes that the Trial Magistrate’s decision is supported by the reliable, probative, and substantial evidence on the whole record; and further, that the Trial Magistrate’s decision is neither arbitrary nor an abuse of discretion *See* § 31-41.1-8(f)(5)-(6).

IV

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 neither clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; nor arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *See* § 31-41.1-8(f)(5)-(6). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.

ENTERED:

Administrative Magistrate Joseph A. Abbate (Chair)

Associate Judge Lillian M. Almeida

Chief Magistrate Domenic A. DiSandro, III

DATE: _____