STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT **RHODE ISLAND TRAFFIC TRIBUNAL**

STATE OF RHODE ISLAND	:	
	:	
v.	:	**C.A. No. T19-0021**
	:	**19001517693**
JOSHUAH ARNOLD	:	

DECISION

PER CURIAM: Before this Panel on January 22, 2020—Administrative Magistrate Abbate (Chair), Associate Judge Almeida, and Magistrate DiChiro, sitting—is Joshuah Arnold's (Appellant) appeal from a decision of Magistrate William T. Noonan (Trial Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violation of G.L. 1956 § 31-14-1, "Reasonable and prudent speeds." Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On June 19, 2019, Trooper Stephen Gaffney (Trooper Gaffney) of the Rhode Island State Police responded to the scene of a multi-car motor vehicle accident. Tr. at 2:15-3:2, Nov. 4, 2019. Upon arriving at the scene, Officer Trooper Gaffney began conducting an investigation. *Id.* at 3:10-11. Based upon this investigation, Trooper Gaffney issued Appellant, the operator of one of the vehicles involved in the collision, a citation for the above-referenced violation. *Id.* at 3:15-18; *see* Summons No. 19001517693.[1]

[1] Appellant was also issued a citation for § 31-14-15, "Laned roadways," but the Trial Magistrate did not sustain this charged violation at the conclusion of Appellant's trial. Tr. at 9:1-2, Nov. 4, 2019. Additionally, another citation, § 31-47-9, "Operating motor vehicle without evidence of

Appellant contested the charged violation, and the matter proceeded to trial on November 4, 2019. Trooper Gaffney testified first. Tr. at 2:20, Nov. 4, 2019. Trooper Gaffney discussed that while assigned to the night patrol on June 19, 2019, he, along with Trooper Greg Palmer (Trooper Palmer), was dispatched to the scene of a reported motor vehicle accident involving several vehicles on Route 95 in the City of Warwick. *Id.* at 2:20-3:2. Upon arriving, Trooper Gaffney observed that a vehicle operated by Appellant had sustained damage to the front end, while another vehicle on scene had sustained damage to its rear. *Id.* at 2:2-10. Through an investigation and witness statements, Trooper Gaffney ultimately determined that Appellant operated his vehicle at a reckless speed prior to the accident. *Id.* at 2:10-16.

Appellant's counsel then cross-examined Trooper Gaffney. *Id.* at 4:3. Trooper Gaffney testified that he spoke with the operator of the vehicle which sustained damage to its rear, who stated that Appellant drove up behind the vehicle at a high rate of speed. *Id.* at 6:4-7. However, Trooper Gaffney discussed that he did not speak with Appellant because he was immediately taken by rescue from the accident scene. *Id.* at 6:15-16. He further testified that he did not speak with any emergency medical technicians on scene, as they had already departed with Appellant by the time he and Trooper Palmer arrived. *Id.* at 7:2-8. Trooper Gaffney stated that his determination that Appellant operated his vehicle at an unreasonable speed was based from his own observations and interviews, as well as those of Trooper Palmer. *Id.* at 6:17-20. Finally, Trooper Gaffney discussed that while both he and Trooper Palmer have extensive experience investigating accidents that occur on the state's highways, neither is an accident reconstructionist. *Id.* 6:21-7:1.

Having heard all of the testimony, the Trial Magistrate sustained the charged violation

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insurance," was dismissed before trial. *Id.* at 10:23-24. The only citation at issue before this Panel is Appellant's sustained violation of § 31-14-1, "Reasonable and prudent speeds."

based on the evidence presented at trial. *Id.* at 9:22-10:8. The Trial Magistrate discussed that Trooper Gaffney could have reasonably inferred from the evidence—namely, the damage sustained by both vehicles—that Appellant collided with the other vehicle because of his failure to maintain reasonable and prudent speeds. *Id.* The Trial Magistrate noted that the collision would have been avoided if Appellant was operating at reasonable and prudent speeds. *Id.* at 10:10-13. Accordingly, the Trial Magistrate imposed a fine of ninety-five dollars, but vacated court costs. *Id.* at 10:19-23.

Appellant subsequently filed a timely appeal of the Trial Magistrate's decision. *See* Appellant's Notice of Appeal at 1. Forthwith is the Panel's decision.

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 relevant 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 prejudiced because the judge's findings, inferences, conclusions or decisions are:
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> "(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 Company 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 *Environmental Science Corporation 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 argues that the Trial Magistrate's decision to sustain the charged violation was "[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Sec. 31-41.1-8(f)(5). Specifically, Appellant contends that because Trooper Gaffney was not a witness to the accident, he could not have reasonably determined that Appellant violated § 31-14-1 prior to the collision, and therefore he failed to meet his burden of proof at trial.

A. § 31-14-1 Standing Alone

Before addressing Appellant's arguments, this Panel must decide whether the charged

violation of § 31-14-1 could have been sustained standing alone.[2] Section 31-14-1 provides:

> "No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care. Violations of this section are subject to fines enumerated in § 31-41.1-4."

Sec. 31-14-1.

In *State v. Campbell*, our Supreme Court determined that the language of § 31-14-1, standing alone, did not meet the constitutional test of reasonable certainty set forth in *State v. Scofield*. *State v. Campbell*, 97 R.I, 111, 196 A.2d 131 (1963); *see also State v. Scofield*, 87 R.I. 78, 138 A.2d 415 (1958). The Court found that a complaint charging a motorist with only the language of § 31-14-1 is so lacking in definiteness that a person of ordinary intelligence could not know at what speed he or she could drive and be within the law. *See Campbell*, 97 R.I. at 113, 196 A.2d at 132. Thus, the Court instructed that a complaint charging a motorist with violating § 31-14-1 must also reference § 31-14-2 or § 31-14-3 in order to adequately apprise the motorist of the specific accusation against him or her. *Id.* at 112, 196 A.2d at 132.

Section 31-14-2 states, in relevant part:

> "(a) Where no special hazard exists that requires lower speed for compliance with § 31-14-1, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this title shall be lawful, but any speed in excess of the limits specified in this section or established as authorized in this title shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful[.]"

Sec. 31-14-2(a). Additionally, § 31-14-3 states, in relevant part:

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[2] Indeed, the Trial Magistrate appeared to reference this fact at Appellant's trial, stating, "I'm aware of the legal arguments regarding [the] charge of unreasonable and prudent speeds without an underlying charge. I'll leave that to the Appellate Court[.]"

> "(a) The driver of every vehicle shall, consistent with the requirements of § 31-14-1, drive at an appropriate, reduced speed when approaching and crossing an intersection or railroad grade crossing; when approaching and going around a curve; when approaching a hill crest; when traveling upon any narrow or winding roadway; when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions; and in the presence of emergency vehicles displaying flashing lights as provided in § 31-24-31, tow trucks, transporter trucks, highway maintenance equipment displaying flashing lights (while performing maintenance operations), and roadside assistance vehicles displaying flashing amber lights while assisting a disabled motor vehicle. Violations of this section are subject to fines enumerated in § 31-41.1-4."

Sec. 31-14-3(a). In requiring that a complaint must also reference § 31-14-2 or § 31-14-3 in order to adequately apprise the motorist of the specific accusation against him, the motorist is advised that the speed at which he or she traveled was unreasonable because it was in excess of the limits designated in § 31-14-2, or because the motorist failed to reduce his or her speed when he or she encountered one of the hazards specified in § 31-14-3.

However, in *State v. Lutye*, the Court found that in addition to supplementing a charge of § 31-14-1 with § 31-14-2 or § 31-14-3, "[a] third alternative for satisfying the certainty test is to charge that the speed was unreasonable because the operator could not so control his vehicle as to avoid colliding with persons or vehicles as particularized in the second sentence of [§] 31-14-1." *State v. Lutye*, 109 R.I. 490, 493, 287 A.2d 634, 637 (1972); *see also State v. Gabriau*, 113 R.I. 420, 322 A.2d 30 (1974) (affirming the principle that a motorist's failure to control his or her vehicle as to avoid a collision satisfies the certainty requirement). Thus, the second sentence of § 31-14-1satisfies the certainty requirement by "specifying the conduct which made the speed

unreasonable." Sec. 31-14-1; *Lutye*, 109 R.I. at 493, 287 A.2d at 637; *Gabriau*, 113 R.I at 423, 322 A.2d at 32.

In the instant matter, this Panel finds as a matter of law that Appellant's charged violation of § 31-14-1 could have been sustained alone. The specific conduct of which Appellant is accused is set out in the second sentence of the statute: "In every event, speed shall be *so controlled as may be necessary to avoid colliding* with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care." *See* § 31-14-1 (emphasis added). This is not a case where the motorist is accused of traveling at an unreasonable speed beyond that set out in § 31-14-2 or where a hazard listed in § 31-14-3 exists; rather, Appellant is accused of traveling at an unreasonable speed because a collision resulted. The Trial Magistrate also alluded to the fact that Appellant was not charged with §§ 31-14-2 or 31-14-3, discussing that Appellant "was not operating in any event controlling his speed so as to be necessary to avoid colliding with a person, vehicle or other conveyance on a highway because he did [collide]," and that "[w]hat we have here is a collision that would have been avoided if this operator was…regulating his speed accordingly." Tr. at 10:58; 10:10-13, Nov. 4, 2019. Therefore, this Panel is satisfied that, as a matter of law, the Trial Magistrate's finding that the facts of this case allow a charge of § 31-14-1 to stand alone is not in violation of statutory or constitutional provisions or affected by error of law.

B. Burden of Proof

Notwithstanding the above discussion, Appellant asserts that Trooper Gaffney did not sustain his burden of proof at trial with respect to Appellant's sustained violation of § 31-14-1. This Panel agrees.

The Rhode Island Traffic Tribunal Rules of Procedure dictate that "[t]he burden of proof shall be on the prosecution to a standard of clear and convincing evidence." Traffic Trib. R. P. 17(a). With respect to Appellant's sustained violation, the prosecution must prove by clear and convincing evidence that the driver failed to control the speed of his or her vehicle "as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care." Sec. 31-14-1; Trib. R. P. 17(a).

In the instant matter, the record does not indicate that Trooper Gaffney sustained his burden of proof at trial. Specifically, Trooper Gaffney arrived on scene after the accident had concluded and did not witness the collision take place. Tr. at 2:20-3:2., Nov. 4, 2019. This fact rendered Trooper Gaffney unable to observe the manner in which Appellant operated his vehicle, and therefore he could not attest as to whether Appellant operated his vehicle at a high rate of speed, or whether Appellant failed to control his speed to avoid a collision in violation of § 31-14-1. While there is nothing in the record to indicate the other vehicle's operator caused the collision, the record similarly does not suggest that Appellant's failure to control the speed of his own vehicle caused the collision because Trooper Gaffney did not witness the collision. Additionally, Trooper Gaffney testified that he was not able to speak with Appellant or emergency personnel at the scene, and based his findings only on the investigations conducted by himself, Trooper Palmer, and the statement provided by the other motorist. *Id.* at 6:15-7:8. Because Trooper Gaffney was unable to interview Appellant, the other motorist's statement and the Troopers' investigation could not be corroborated or contradicted by Appellant. Although a trial judge or magistrate may draw inferences from the testimony of a witness, the aforementioned evidence presented at Appellant's trial was insufficient for the Trial Magistrate to reasonably infer that the collision was the result of

Appellant's violation of § 31-14-1. *See DeSimone Elec., Inc. v. CMG, Inc.*, 901 A.2d 613, 621 (R.I. 2006) ("During his or her fact-finding process, the trial justice may 'draw inferences from the testimony of witnesses, and such inferences, if reasonable, are entitled on review to the same weight as other factual determinations.'").

After thoroughly reviewing the record, this Panel finds that there was insufficient evidence offered at trial to support the Trial Magistrate's decision. *See Link*, 633 A.2d at 1348 (citing *Envtl. Sci. Corp.*, 621 A.2d at 208). Accordingly, this Panel finds the Trial Magistrate's decision to be "clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record[.]" Sec. 31-41.1-8(f)(5).

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 clearly erroneous in view of the reliable,

probative, and substantial evidence on the whole record. *See* § 31-41.1-8(f)(5). The substantial rights of Appellant have been prejudiced. Accordingly, Appellant's appeal is granted, and the charged violation is dismissed.

ENTERED:

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Administrative Magistrate Joseph A. Abbate (Chair)

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Associate Judge Lillian M. Almeida

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Magistrate Michael DiChiro

DATE: _____