

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

MARIA KNIGHT

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C.A. No. T19-0024
19203506214
19203506215

DECISION

PER CURIAM: Before this Panel on March 11, 2020—Magistrate Kruse Weller (Chair), Chief Magistrate DiSandro, and Magistrate Goulart, sitting—is Maria Knight’s (Appellant) appeal from a decision of Magistrate Michael DiChiro (Trial Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violations of G.L. 1956 § 31-27-2.1, “Refusal to submit to chemical test” and § 31-26-3.2, “Immediate notice of accident.” Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to § 31-41.1-8. For the reasons stated herein the Panel grants the Appellant’s motion and dismisses the violation.

I

Facts and Travel

On September 11, 2019, Officer Sara Goes (Officer Goes) of the Warwick Police Department responded to the scene of a motor vehicle incident in the City of Warwick. Tr. at 8, Nov. 18, 2019. After arriving on scene and receiving a description of the other vehicle involved and the direction in which it travelled, Officer Goes located a damaged vehicle that appeared to have been involved in a motor vehicle incident and identified a woman who was sitting on the ground next to the vehicle as Appellant. *Id.* at 12. Officer Goes subsequently charged Appellant

with the above-mentioned violations. *See* Summons No. 19203506214; Summons No. 19203506215.

Appellant pled not guilty to the charged violations, and the matter proceeded to trial on November 18, 2019. Officer Goes was the only witness to testify at Appellant's trial. First, Officer Goes testified as to her experience and training in observing individuals driving under the influence (DUI). At the time of trial, Officer Goes had been a member of the Warwick Police Department for two years and during this time had made approximately twenty to twenty-five arrests for DUI. *Id.* at 4-5. Officer Goes also testified that she had been trained to administer several field sobriety tests and to observe the physical indicia of a motorist suspected of being intoxicated. *Id.* at 5-6.

Next, Officer Goes testified to the events of the night in question. On September 11, 2019, Officer Goes responded to a call from dispatch of a motor vehicle incident involving two vehicles that occurred at the intersection of West Shore Road and Pettis Drive in the City of Warwick. *Id.* at 8-10. Officer Goes thereafter located the parked vehicle one street over that appeared to have been involved in a collision. *Id.* at 12. Officer Goes also located Appellant, who was "[s]itting on the grass next to her vehicle, hysterically crying, slurring her speech and talking to an unknown person on her cell phone." *Id.* Officer Goes requested that Appellant conclude her phone call to discuss what had occurred, but testified that Appellant became "agitated [and] belligerent." *Id.* Officer Goes then assisted Appellant in standing up and asked if she was willing to submit to any field sobriety tests. *Id.* at 13. Officer Goes testified that after making this request, Appellant "started swinging her arms and pulling away and yelling at me that she did nothing wrong." *Id.* Officer Goes testified that for her own safety and that of

Appellant, she placed Appellant in handcuffs and seated her in a police cruiser for a short time. *Id.*

Officer Goes testified that she then attempted to read Appellant her rights for use at the scene using a preprinted card. *Id.* at 15. However, Officer Goes testified that she “got about $\frac{3}{4}$ of the way through before [Appellant] started kicking and screaming, swearing, not hearing a word I was saying.” *Id.* For Appellant’s safety, Officer Goes “stopped reading and consulted with a supervisor...[regarding] whether or not to take [Appellant] to the hospital or what to do for her safety.” *Id.* Officer Goes testified that Appellant did not indicate that she understood the rights when she read them to her. *Id.* at 15-16.

Officer Goes subsequently transported Appellant to the Warwick Police Station. *Id.* at 16. Officer Goes testified that she removed Appellant from the police cruiser and placed her in the processing location of the cell block location. *Id.* Officer Goes then read Appellant her rights for use at the station. *Id.* Officer Goes also testified that while reading Appellant her rights for use at the station, Appellant stated, “I didn’t do anything wrong, all I did was have drinks, drive my car, parked it on the street and wait for my brother to pick me up.” *Id.* at 23. Officer Goes also asked Appellant again whether she was willing to submit to a chemical test. *Id.* at 17. Again, Appellant refused to submit to the test. *Id.* at 18. Officer Goes testified that she then placed Appellant into the cell block, but Appellant “was yelling and screaming [and] being very uncooperative in the cell.” *Id.* Officer Goes testified that a member of the Warwick Police Department then transported Appellant to a hospital. *Id.* After testimony concluded, the Trial Magistrate informed the parties that he would issue a decision at a later date. *Id.* at 29-30.

On December 9, 2019, the Trial Magistrate sustained the charged violations based on the evidence presented at trial. Tr. at 5, Dec. 9, 2019. The Trial Magistrate found “based on the

testimony presented and the totality of the circumstances that the State did prove the case by clear and convincing evidence,” and that “Officer Goes had reasonable grounds to believe [Appellant] was operating the vehicle under the influence of alcohol or drugs.” *Id.* The Trial Magistrate also found by clear and convincing evidence that Appellant failed to immediately notify the motor vehicle incident to police. *Id.* at 6. Accordingly, the Trial Magistrate imposed an eight month suspension of Appellant’s license, a \$500 highway safety fee, a \$200 Department of Health Fee, a \$200 fine, and ten hours of community, regarding Summons No. 19203506214. *Id.* The Trial Magistrate also imposed a fee of eighty-five dollars, plus costs, regarding Summons No. 19203506215.

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:

- “(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 sets forth several arguments that the Trial Magistrate’s decision to sustain the charged violations was “[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record.” Sec. 31-41.1-8(f)(5).

A. Reasonable Suspicion to Believe Appellant was Operating Under the Influence

Appellant argues that Officer Goes did not have reasonable suspicion to request Appellant submit to field sobriety tests. Defs.’ Mem. in Supp. of Appeal, at 7. Specifically, the Appellant contends that there was no testimony as to the amount of time that lapsed between

Officer Goes arrival at the scene and when Officer Goes thereafter came in contact with the Appellant. Pursuant to § 31-27-2.1, a police officer is authorized to direct a motorist to submit to a breathalyzer test if the officer has “reasonable grounds” to believe that the motorist has operated a motor vehicle within this state while under the influence of alcohol. *See* § 31-27-2.1; *see also State v. Bruno*, 709 A.2d 1048, 1050 (R.I. 1998) (holding that reasonable suspicion is the appropriate standard upon which to satisfy a violation of §31-27-2.1).

The testimony at trial revealed that Officer Goes responded to a motor vehicle accident and that based on information from the witness, and on the direction in which the other vehicle travelled, officer Goes “turned her vehicle around” and went “one street over.” Tr. at 10, Nov. 18, 2019. At that time, Officer Goes testified that she observed a vehicle with damage matching that which occurred as a result of the accident, with the Appellant seated next to the vehicle and visibly upset. As a result, Officer Goes could make a reasonable inference based on the totality of the circumstances, and based on the short distance in both location and time, to reasonably conclude that this was the same vehicle and operator involved in the motor vehicle accident. As a result, this Panel rejects Appellant’s argument as to the insufficiency of the evidence that the Appellant was the operator.

As to the indicia of intoxication, Officer Goes testified that once she approached Appellant, she made the following observations: Appellant was crying, slurring her speech, and talking on her cellphone and became belligerent and agitated. Officer Goes further testified that Appellant needed assistance when walking. It is unclear from the record, however, whether Appellant was unsteady on her feet and slurring and crying due to the effects of being in an accident or due to Appellant being under the influence. The Trial Magistrate made no findings as to the presence of any other indicia of possible drug or alcohol consumption, such as an odor

of alcoholic beverage, bloodshot watery eyes, flushed face, nor were any standardized field sobriety tests conducted because Appellant refused. While the record indicates that Appellant later admitted at the station that she had consumed alcohol previously, that admission came after Officer Goes had made a determination to arrest Appellant and while reading her the rights for use at the station.¹

With respect to the violation of § 31-26-3.2, “Immediate notice of accident,” that section provides:

The driver of a vehicle involved in an accident resulting in injury to or death of any person, or any vehicle other than a vehicle moved by human power becoming so disabled as to prevent its normal and safe operation, shall immediately by the quickest means of communication give notice of the accident to the nearest office of a duly authorized police authority.

In the instant matter, there was neither any testimony nor findings of fact that Appellant was involved in any accident with another vehicle “becoming so disabled as to prevent its normal and safe operation,” or that Appellant failed to give notice of the accident “to the nearest office of a duly authorized police authority.” Sec. 31-26-3.2. The only relevant testimony is that Appellant was on the ground “talking to an unknown person on her cell phone.” There were no findings made that indicate Appellant did not attempt to call the police, or that she was not on the phone to police at the time she was speaking to someone on the phone. As a result, the record contains no evidence to support the violation.

After thoroughly reviewing the record, this Panel finds that the Trial Magistrate’s decision did not include sufficient findings of fact to support either of the violations. *See Link*, 633 A.2d at 1348 (citing *Envtl. Sci. Corp.*, 621 A.2d at 208). Accordingly, this Panel finds the

¹ We note that Appellant contends that she was not fully informed of her rights because Officer Goes only read through $\frac{3}{4}$ of the rights form. This Panel need not address that argument in light of its disposition.

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[.]” Sec. 31-41.1-8(f)(5). The substantial rights of Appellant have prejudiced. Accordingly, Appellant’s appeal is granted and the charged violations are dismissed.

ENTERED:

Magistrate Erika Kruse Weller (Chair)

Chief Magistrate Domenic A. DiSandro III

Magistrate Alan R. Goulart

DATE: _____