

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**CRANSTON, RITT**

**RHODE ISLAND TRAFFIC TRIBUNAL**

**STATE OF RHODE ISLAND**

**v.**

**MINH TRAN**

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**C.A. No. T20-0001  
19001536002**

**DECISION**

**PER CURIAM:** Before this Panel on October 28, 2020—Administrative Magistrate Abbate (Chair), Chief Magistrate DiSandro, and Judge Parker, sitting—is Minh Tran’s (Appellant) appeal from a decision of Magistrate William T. Noonan (Trial Judge) of the Rhode Island Traffic Tribunal, denying Appellant’s motion to vacate the default judgment entered with regard the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” The Appellant appeared before this Panel represented by counsel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

**I**

**Facts and Travel**

On November 29, 2019 Officer John R Brown (Officer Brown) of the Rhode Island State Police issued Summons 19001536002 to the Appellant for speeding sixty five miles per hour in a fifty five miles per hour zone. *See* summons 19001536002.

On December 26, 2019, when the matter was scheduled for first appearance, Appellant failed to appear. Subsequently on the same day, Appellant filed a motion to vacate judgment and a hearing was scheduled for January 13, 2020.

On January 13, 2020, the Trial Judge denied the Appellant’s motion. The Trial Judge indicated that Appellant’s motion did not meet the legal standard of excusable neglect, however

he found Appellant had no prior traffic violations within three years and suggested that the matter could be dismissed under the good driving statute. (Tr. 1). Appellant asked if he could plead not guilty and the Hearing Judge said “no” and denied the motion. *Id.* The Trial Judge noted the explanation in support of the motion to vacate, i.e. “I forgot,” was not a viable defense and failed to meet the legal standard of excusable neglect. *Id.* The Appellant subsequently filed this timely appeal.

## 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 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 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 he was misunderstood by the Hearing Judge at the time of his motion hearing.

It is well-settled that “[a] defendant is in default if he omits to answer an action commenced against him . . . [or] if, having answered, he neglects to appear at the time fixed for trial.” *Gregson v. Superior Court*, 46 R.I. 362, 365, 128 A. 221, 222 (1925). Here, Appellant failed to appear at the fixed time for his arraignment hearing.

Further, under Rhode Island Traffic Tribunal Rules of Procedure Rule 20 “Relief from Judgment” “[a] court may, upon motion or on its own initiative, relieve a party or a party’s legal representative from a judgment or order for the following reasons: (a) mistake, inadvertence, surprise, or excusable neglect.” However, the Trial Judge found Appellant’s reason in support of the motion to vacate was not a viable defense and did not meet the legal standard of excusable neglect. Thus, on appeal, 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* 633 A.2d at 1348. As such, this Panel finds the Trial Judge did not abuse his discretion in denying Appellant’s motion to vacate judgment.

#### **IV**

#### **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 decisions was not “[a]rbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” *See* § 31-41.1-8(f)(6). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violation is sustained.

ENTERED:

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Administrative Magistrate Joseph A. Abbate (Chair)

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Chief Magistrate Domenic A. DiSandro, III

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Judge Edward C. Parker

DATE: \_\_\_\_\_