

**STATE OF RHODE ISLAND  
PROVIDENCE, Sc.**

**DISTRICT COURT  
SIXTH DIVISION**

**Ashley Jankowski** :  
 :  
v. : **A.A. No. 6AA-2025 - 00042**  
 :  
**Town of Smithfield** :  
**(RITT Appeals Panel)** :

**ORDER**

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and Recommendations of the Magistrate.

After a de novo review of the record and the memoranda of counsel, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto.

It is, therefore, ORDERED, ADJUDGED AND DECREED, that the Findings and Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the decision of the Appeals Panel is AFFIRMED.

Entered as an Order of this Court at Providence on this 28<sup>th</sup> day of May, 2026.

Enter:

\_\_\_\_\_/s/  
Jeanne E. LaFazia  
Chief Judge

By Order

\_\_\_\_\_/s/  
Jamie Hainsworth  
Clerk

**STATE OF RHODE ISLAND  
PROVIDENCE, Sc.**

**DISTRICT COURT  
SIXTH DIVISION**

Ashley Jankowski :  
 :  
v. : A.A. No. 2025-042  
 : (T24-024)  
Town of Smithfield : (24-411-501414)  
(RITT Appeals Panel) :

**FINDINGS & RECOMMENDATIONS**

**Ippolito, M.** In the early morning hours of August 12, 2024, Officer Gavin O’Keefe of the Smithfield Police Department stopped a vehicle operated by Ms. Ashley Jankowski and cited her for three civil traffic violations — (1) Driving on a Suspended License, under G.L. 1956 § 31-11-18(a), (2) Operating an Unregistered Vehicle, under G.L. 1956 § 31-3-1, and (3) Use of Multiple Beam Lamps, under G.L. 1956 § 31-24-23. *See Dec. of Appeals Panel*, at 1 (citing *Trial Tr.* at 9).<sup>1</sup> On October 7, 2024, the case proceeded to trial before a Magistrate of the Traffic Tribunal, who sustained all three charges. After her initial appeal to the Appeals Panel of the Tribunal failed to gain her relief from this adjudication, Appellant Jankowski has sought further review in this Court, which is vested with jurisdiction to hear and decide appeals from decisions of the Appeals Panel by G.L. 1956 § 31-41.1-9. *See also* Traffic Trib. R.P. 21(b).

Before this Court, Ms. Jankowski argues that the Trial Magistrate erroneously permitted Officer O’Keefe to testify regarding the results of computer checks

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<sup>1</sup> The Decision of the Appeals Panel may be found in the electronic record attached to this case, beginning at 31. The Trial Transcript may be found in the electronic record beginning at 55. Henceforth, citations to the electronic record shall be styled as *ER* at [page number].

he performed concerning the status of Appellant’s driver’s license and her vehicle’s registration — without producing certified records from the Division of Motor Vehicles; she appeals from the Appeals Panel’s affirmance of her convictions. This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. Applying the standard of review found in G.L. 1956 § 31-41.1-9(d), I have concluded that Ms. Jankowski’s convictions were supported by competent evidence of record and is not inconsistent with the applicable law. I must therefore recommend that the decision rendered by the Appeals Panel in this case be AFFIRMED.

**I**

**Facts and Travel of the Case**

**A**

**The Incident**

The facts of the incident which led to the three charges being lodged against Ms. Jankowski are fairly stated in the decision of the Appeals Panel. *See Dec. of Appeals Panel*, at 1-2. At approximately ten past one on the morning of August 12, 2024, Officer O’Keefe noticed a white Mazda CX-5 traveling east on Putnam Pike because it flashed its high-beams at a vehicle going westbound. *Id.* at 1-2 (citing *Trial Tr.* at 9-10). Consequently, he followed the Mazda and, while doing so, checked the registration plate, and learned that the registration had been canceled. *Id.* at 2 (citing *Trial Tr.* at 10). And so, Officer O’Keefe stopped the Mazda in the vicinity of Putnam Pike and Hattie Avenue. *Dec. of Appeals Panel*, at 2 (citing *Trial Tr.* at 13).

The operator identified herself to the Officer as “Ashley O’Donnell,” with a date of birth of November 4, 1992, but she had no license on her person and she possessed no paperwork relating to the car’s registration or insurance. *Id.* (citing *Trial Tr.* at 14). According to the Officer, the operator’s answers to his questions were inconsistent. *Id.* She

stated that she believed that her Rhode Island license was suspended but her Massachusetts license was valid. *Dec. of Appeals Panel*, at 2. However, the Officer determined that no records existed in either state regarding an “Ashley O’Donnell.” *Id.* (citing *Trial Tr.* at 15). But, as the Appeals Panel summarized, he made further checks:

Subsequent checks by Officer O’Keefe revealed that the vehicle he stopped had been frequently operated by an Ashley Jankowski, born November 4, 1992. Using booking photos and tattoo information linked to prior arrests, Officer O’Keefe positively identified the motorist as Ashley Jankowski (“Appellant”). A records check indicated that Appellant’s Rhode Island license had been suspended on May 6, 2024, due to a failure to appear or pay a previous citation. Additionally, Appellant had an active bench warrant issued on May 29, 2024, stemming from a shoplifting charge in Warwick.

*Id.* at 2 (citing *Trial Tr.* at 15-17) (internal citations omitted). As a result of the information which the officer had ascertained, Appellant was arrested on an outstanding warrant and cited with three violations: driving with a suspended license, first offense; operating an unregistered vehicle; and improper use of multiple-beam headlights. *Id.* at 2 (citing *Trial Tr.* at 17).<sup>2</sup> Ms. Jankowski entered pleas of not guilty at her arraignment on September 9, 2024. See *Traffic Tribunal Judgment Form*, *ER* at 85. The matter was reassigned for trial to October 7, 2024. *Id.*

## **B**

### **The Trial**

The sole witness at the trial was Patrolman O’Keefe. *Trial Tr.* at 4 *et seq.*<sup>3</sup> After taking the testimonial oath, the Officer began to testify in narrative form regarding the incident on Putnam Pike on August 12th, in a manner consistent with the narrative

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<sup>2</sup> The summons in question, no. 24-411-501414, may be found on page 86 of the electronic record.

<sup>3</sup> The Trial Transcript may be found in the electronic record of this case beginning at 55.

presented *supra*. *Trial Tr.* at 8-12. But when he related that he ran the Mazda's plate and it came back as canceled, the defense objected, and asserted that such information could only be admitted, in the absence of a witness from the DMV, in the form of a certified copy of the record. *Id.* In support of his objection, Counsel referenced a 2011 decision of the Tribunal's Appeals Panel, *State v. Lizardo*,<sup>4</sup> Rule 801 of the Rhode Island Rules of Evidence, and a statute, G.L. 1956 § 9-19-40. *Id.* at 10-11. But, the objection was overruled. *Id.* at 10, 12. Officer O'Keefe then testified that the registration did not match the Mazda, but a 2007 Chrysler PT Cruiser. *Id.* at 12.

Officer O'Keefe then testified that he initiated a stop of the Mazda based on the lights-violation as well as the registration issue. *Id.* at 13. He then identified the Defendant, Ms. Jankowski, as being the motorist whom he stopped on August 12, 2024. *Id.* Next, the witness described his colloquy with the motorist regarding her name (and how to spell it) and the status of her operator's license, as given *supra*. *Id.* at 14. He also related that, by inquiring about the vehicle, he learned that the Mazda had been previously operated by a person named Ashley Jankowski, with a date of birth of November 4, 1992, and a license number of 2823221. *Trial Tr.* at 15-16. The Officer then looked through old booking photos of Ms. Jankowski and was able to identify the motorist he had stopped as being, in fact, Ashley Jankowski. *Id.* All this testimony concerning the Motorist's name, date of birth, license number, and license status was admitted over the Defendant's

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<sup>4</sup> The full citation to the *Lizardo* decision was not given in the trial record. However, given the centrality of that opinion to Ms. Jankowski's arguments in this appeal, it shall be rendered here: *State v. Lizardo*, C.A. No. T11-0021 (Traffic Trib. App. Panel, 11/17/2011). It may be obtained on the Court's website at <https://www.courts.ri.gov/Decisions/T11-0021.pdf>. It may further be noted that the defendant, Ms. Joanna Lizardo, was charged with allowing her husband, Mr. Franklin Lizardo, an unlicensed driver, to operate her vehicle, in violation of G.L. 1956 § 31-11-20.

The relative rarity of that charge, compared with a charge like driving without a license, may explain why the *Lizardo* decision was not mentioned in an Appeals Panel decision from 2011 until it was discussed in this case, almost fourteen years later.

objection. *Id.* at 16-17. And, on cross-examination by Defense Counsel, the Officer conceded that he did not have any certified records from the Division of Motor Vehicles — neither as to the Defendant’s license nor as to her vehicle registration. *Id.* at 17-18. Officer O’Keefe also admitted that he had never seen her driving the vehicle in question before. *Id.* at 18. At this juncture the hearing was closed, and the matter was reassigned to October 9, 2024, for decision. *Id.* at 20.

## C

### The Bench Decision

The Court rendered its Decision on October 9, 2024. *Decision Tr.* at 1 *et seq.*; *ER* at 39. The Trial Magistrate began his Decision by enumerating the parties and the charges. *Dec. Tr.* at 4. He then proceeded to recapitulate the evidence and testimony which was received in detail. *Id.* at 4-6. In particular, the Magistrate recalled the Officer’s testimony that Ms. Jankowski’s license had been suspended on May 6, 2024. *Id.* at 6. He also noted that the Officer testified, while on cross-examination, that he had no certified records from the DMV. *Id.* The Magistrate then explained the charges. *Id.* at 6-7. Finally, he declared that the Town of Smithfield bore the burden of proof on these charges to the standard of clear and convincing evidence. *Id.* at 7.

The Magistrate then began to make findings of fact. He found that Officer O’Keefe testified “credibly and professionally.” *Id.* at 7. Having said this, he stated that he would “incorporate his entire testimony into the Court’s findings of fact in this matter.” *Id.* Moreover, he declared that the Town had met its burden of proof on all three charges. *Id.* at 8. The Magistrate also addressed the arguments made by the Defense regarding the necessity of certified records and the case cited by Counsel in support of that argument. *Lizardo, supra*; He also discussed *State v. Bjerke*, 697 A.2d 1069 (R.I. 1997), a decision of our Rhode Island Supreme Court. *Id.* at 8-9. The Trial Magistrate stated that he did not

find the *Lizardo* case persuasive; but he did discuss *Bjerke*, in which the Court held that the Officer was entitled to rely on the information he received from the DMV system while in his patrol car, which informed him that the defendant's car was unregistered. *Dec. Tr.* at 9. The Trial Magistrate added that it would be an undue burden of the prosecuting agencies to bring someone from the DMV for every trial. *Id.* at 9. And so, the Trial Magistrate reiterated that the Town had met its burden of proof on all three charges. *Id.* at 10. Minimum fines were imposed on each. *Id.* at 13.

## C

### The Decision of the Appeals Panel

Appellant filed a timely appeal, and seven weeks later, on January 22, 2025, oral arguments in the case were heard by an Appeals Panel composed of Magistrate DiChiro (Chair), Magistrate Noonan, and Magistrate Abilheira. *Dec. of Appeals Panel*, at 1; *ER* at 31. In its decision, which was issued on May 1, 2025, the Panel identified and addressed what it called “the central issue on appeal” — namely,

... whether the Trial Magistrate erred by permitting Officer O’Keefe to testify regarding the status of Appellant’s driver’s license and the vehicle’s registration without the introduction of certified records from the Rhode Island Division of Motor Vehicles (DMV).

*Id.* at 5.

The Panel began the Analysis section of its Decision by declaring its “general policy” to rely on the precedents of the Rhode Island Supreme Court. *Id.* It then declared that, basing its ruling on the Supreme Court’s decision in *Bjerke*, it would uphold the decision of the Trial Magistrate. *Id.* at 5. According to the Panel, in *Bjerke* the Court “upheld a trial court’s ruling that an officer was permitted to rely on DMV information accessed via a cruiser-mounted computer system to determine whether a license was valid.” *Id.* (citing *Bjerke*, at 1071). And so, the Panel concluded that since the Court in

*Bjerke* approved the officer’s reliance on DMV registration information that he obtained through a cruiser-mounted computer, the same rule should be applied here. *Dec. of Appeals Panel*, at 5 (citing *Bjerke*, at 1073). Furthermore, the Appeals Panel recognized that it would be burdensome to require (a) that a witness from the DMV testify or (b) that a certified record be presented in every case. *Id.* at 5.

In the second half of the Appeals Panel’s analysis, three additional points were made. *First*, it expressed support for, and deference to, the Trial Magistrate’s finding that Officer O’Keefe’s testimony was credible. *Id.* at 6. *Second*, it rejected the decision rendered by the Appeals Panel in *Lizardo* — that is, that a certified copy of DMV records was necessary to prove license or registration violations. *Id.* Noting that the holding of *Lizardo* has never been accepted by the Rhode Island Supreme Court, the Panel declared that its reasoning was unpersuasive “... in cases such as this, where a law enforcement officer testifies credibly *based on real-time information accessed through an official state database.*” *Id.* (emphasis added). And *finally*, the Panel rejected the Appellant’s argument that G.L. 1956 § 9-19-40 mandates the introduction of certified copies of DMV records in every case where the status of a license or a registration is in issue. *Id.* The Appeals Panel viewed the statute as *permitting* the use of certified copies but not *mandating* them — the latter notion being one which, in its view, is contrary to the text and “the practical realities of traffic enforcement.” *Id.* And so, the Panel found that the testimony was properly admitted and that the Town’s proof satisfied the statutory standard of clear and convincing evidence. *Id.* at 6-7.

Accordingly, the members of the Appeals Panel unanimously concluded that the Decision of the Trial Magistrate was neither clearly erroneous nor arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion; nor were substantial rights of the Appellant found to have been prejudiced.

Appellant's appeal was therefore denied. *Id.* at 7.

## II Positions of the Parties

### A Appellant Jankowski

After a brief narrative of the facts and travel of the instant case, Ms. Jankowski offers three arguments in support of her appeal in her memorandum. *Appellant's Mem.* at 2-4.

In her *first* argument, Appellant sets forth in full the provisions of G.L. 1956 § 9-19-40. *Id.* at 2. She then discusses the Traffic Tribunal Appeals Panel decision in *State v. Lizardo, supra. Id.* According to Ms. Jankowski, the *Lizardo* Panel reversed the trial magistrate's decision allowing hearsay evidence to prove the status of Mr. Lizardo's driver's license and Mrs. Lizardo's vehicle registration; instead, a *certified* copy of DMV records is required. *Id.* She notes that the *Lizardo* Panel relied upon § 9-19-40. *Id.* at 3.

Appellant then reveals that, in addition to relying upon § 9-19-40, the *Lizardo* Panel also invoked a provision of its own Traffic Tribunal Rules of Procedure and another from the Rhode Island Rules of Evidence. *Id.* (citing *Lizardo*, at 6). Ms. Jankowski informs us that the *Lizardo* Panel cited Traffic Trib. R. Proc. 15(b) for its mandate that the judicial officers of the Tribunal may only receive evidence which is admissible under Rhode Island's statutes and rules of evidence. *Appellant's Mem.* at 3 (citing *Lizardo*, at 6). And, according to Appellant, the *Lizardo* Panel quoted Rule of Evidence 801(c) for its definition of hearsay — and, in the estimation of the *Lizardo* Panel, the trooper's testimony as to the status of Ms. Lizardo's license and registration came within the ambit of that definition. *Id.* (citing *Lizardo*, at 6).

Finally, Appellant closes her comments under the first heading by citing two Rhode Island cases for the proposition that testimony by law enforcement officers regarding the results of serology and toxicology tests performed by others are inadmissible under the hearsay rule. *Id.* (citing *State v. Mallett*, 600 A.2d 273, 276 (R.I. 1991) (serology) and *State v. Welch*, 330 A.2d 400, 402 (R.I. 1975) (toxicology)).

In her *second* argument, Ms. Jankowski asserts that § 9-19-40 must be interpreted by giving voice to its plain language. *Id.* at 3-4. And she urges that if one does so, one must conclude that § 9-19-40 requires the presentation of certified copies of DMV records when the prosecution is attempting to prove the status of a defendant's operator's license or registration. *Id.*

At the outset of her *final* argument, Appellant reminds us of the provisions of G.L. 1956 § 8-6-2(a), which gives authority to the state courts of Rhode Island to make rules regulating “practice, procedure, and business therein[,]” subject to approval by the Supreme Court. *Id.* at 4. She then highlights the last sentence of that subsection, which indicates that rules promulgated under this provision shall supersede any statute in conflict therewith. *Id.* And she asserts that § 9-19-40 is not in conflict with any provision of the Traffic Tribunal Rules of Procedure or the Rhode Island Rules of Evidence and, therefore, that statute should be given full force and effect. *Id.*

## **B**

### **Appellee — The Town of Smithfield**

In its Memorandum of Law, the Town makes four arguments in opposition to the responds to each of Appellant's arguments.

*First*, the Town asserts that an earlier Appeals Panel's decision in *State v. Lizardo* was not binding on the instant Panel and it is not binding on any other Panel addressing this issue. *Appellee-Town's Mem.* at 3. On the other hand, the Town concedes

that the Panel's acknowledgement that it is bound by the rulings of the Rhode Island Supreme Court is unassailable. *Id.* In any event, Traffic Tribunal Appeals Panels are not bound by prior Appeals Panel rulings. *Id.*

*Second*, the Town points out that the Appeals Panel's decision relied upon the decision of the Rhode Island Supreme Court in *State v. Bjerke*, 697 A.2d 1069 (R.I. 1997). *Id.* at 3-4. In *Bjerke*, the trial judge admitted testimony (from the officer who stopped and cited the defendant) that he had been advised by the police dispatcher that the registration of the vehicle he was following had been suspended. *Appellee-Town's Mem.* at 3 (citing *Bjerke*, 697 A.2d at 1070). Comparing the events in the stop of Mr. Bjerke to the stop of Ms. Jankowski, the Town noted that the testimony of Officer O'Keefe was "less attenuated" than that received in the *Bjerke* case, because he *personally* searched the DMV database, and did not depend upon information received from a dispatcher. *Id.* at 4. The Town then argues that the Officer's testimony about what he observed in the DMV system is not hearsay, because he saw it himself, and did not rely on a separate statement made by an out-of-court witness. *Id.*

*Third*, the Town asserts that the plain language of § 9-19-40 does not *require* the introduction of certified copies of DMV records. *Id.* at 4-5. For example, its language does not declare that certified copies are the only way to prove the status of a registration. *Appellee-Town's Mem.* at 4. Nor does it bar any otherwise admissible testimony. *Id.* Lastly, regarding this third argument, the Town reminds us that § 9-19-40 was enacted in 1985, before the promulgation of the Rules of Evidence in 1987, and that, in case of a conflict, the rule trumps the statute. *Id.* at 4-5 (citing G.L. 1956 § 9-19-42).

In the Town's *fourth* and final argument, it quotes Traffic Trib. R. Proc. 2, (which is quoted *infra* in Part IV of this opinion). *Id.* at 5. The Town then urges that there is no conflict between the applicable rules and any pertinent statutes. *Id.* And it adds that

Appellant has not shown that any statute or rule was violated during the course of her trial. *Id.* Moreover, it states that, under Rule 2, the Tribunal Rules of Procedure are meant to provide for the just and expeditious determination of cases within the jurisdiction of the Tribunal. *Id.* And it concludes by urging that Appellant's reading of § 9-19-40 is wrong and her appeal is without merit. *Id.* at 5-6.

### III Standard of Review

The standard of review which must be employed in this case is enumerated in G.L. 1956 § 31-41.1-9(d), which states as follows:

(d) *Standard of review.* The judge of the district court shall not substitute his or her judgment for that of the appeals panel as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the appeals panel, or 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 appeals panel's findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the appeals panel;
- (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.

This provision is a mirror-image of the standard of review found in G.L. 1956 § 42-35-15(g) — a provision of the Rhode Island Administrative Procedures Act (APA). Accordingly, we are able to rely on cases interpreting the APA standard as guideposts in this process. Under the APA standard, the District Court “ ... may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are ‘clearly erroneous.’” *Guarino v. Dep't of Social Welfare*, 122 R.I. 583, 588, 410

A.2d 425, 428 (1980) (*citing* G.L. 1956 § 42-35-15(g)(5)). *See also Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993).

And our Supreme Court has also reminded us that, when handling refusal cases, reviewing courts lack “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, supra*, 633 A.2d at 1348 (*citing Liberty Mutual Insurance Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). This Court’s review “... is confined to a reading of the record to determine whether the judge’s decision is supported by legally competent evidence or is affected by an error of law.” *Id.* at 1348 (*citing Environmental Scientific Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)).

#### IV Applicable Law

*Statutory Provisions.* A plethora of statutes and rules have been cited to this Court by the parties. We shall present them here for the convenience of the reader, beginning with the statutes under which Ms. Jankowski was charged; then we shall present the evidentiary statute she relies upon heavily. Following this, I shall set forth two provisions from the Traffic Tribunal Rules of Procedure. And finally, under this heading, we shall mention two statutory provisions which come to our aid when a conflict exists between our rules of evidence and a statute.

Two of the counts upon which Appellant Jankowski was adjudicated guilty in this case are (1) the civil offenses of Driving Without a License, pursuant to § 31-11-18:

- (a) Any person who drives a motor vehicle on any highway of this state ... at a time when his or her license to operate is suspended, revoked, or cancelled, for reasons other than

those provided for in § 31-11-18.1, shall be subject to penalties and sanctions set forth in this section.

(b) Upon a first violation under this section, a civil penalty of not more than one hundred fifty dollars (\$150) shall be imposed. For the second violation, a civil penalty of not more than two hundred fifty dollars (\$250) shall be imposed. For a third violation, a civil penalty of not more than three hundred fifty dollars (\$350) shall be imposed. All violations under this subsection shall be heard in the traffic tribunal.

And (2) Operating an Unregistered Vehicle, pursuant to § 31-3-1:

It is a civil violation for any person to operate, or for an owner knowingly to permit to be operated, upon any highway any vehicle of a type required to be registered under this chapter which is not registered and for which the appropriate fee has not been paid or not registered as required in any other state.

The evidentiary issue raised by Appellant applies to each of these charges, since both involve reliance on the officer's testimony as to the status of Ms. Jankowski's license and her registration.

And the key to Appellant's evidentiary argument is § 9-19-40, which states:

In any administrative, civil, or criminal proceeding in which the status of the license of any person who drives a motor vehicle on any highway of this state is an issue, certified copies of relevant documents on file with the division of motor vehicles or with the official custodian of relevant documents of another state or subdivision thereof, and the certified statement of the administrator, his or her equivalent, or his or her duly appointed designee as to the status of the license, shall be admissible as evidence of the status of the license subject to the right of the defendant to subpoena the records in rebuttal. Upon request, copies shall be provided to the person or his or her counsel at least three days before the proceeding.

As we have seen, Appellant views this statute as mandatory; the Town views it as permissive.

*Rules of Procedure.* Each of the parties, in their memoranda, have suggested that a Rule of the Traffic Tribunal Rules of Procedure is germane to the instant controversy. Appellant Jankowski cites Traffic Trib. R. P. 15(b):

In all adjudications of civil violations before the traffic tribunal and the municipal courts, the Rhode Island Rules of Evidence shall apply.

For its part, the Town commends to our attention Traffic Trib. R. P. 2, which states:

These rules are intended to provide for the just determination of every civil traffic violation proceeding and other violations assigned to the court for adjudication pursuant to state law. They shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay; they shall also be construed consistent with the fact that they constitute the rules for the adjudication of civil, not criminal, violations of the motor vehicle code and other statutes within the court's jurisdiction, hereinafter referred to as the "law."

The Town believes this declaration of intent must guide our resolution of the evidentiary issue which is presented in this case. Finally, the Town reminds us that two statutes provide that in case of a conflict between a provision of the Rules of Evidence and a statute, the Rules shall take precedence. The first of these is G.L. 1956 § 9-19-42.<sup>5</sup> And the second of these is G.L. 1956 § 8-6-2.<sup>6</sup>

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<sup>5</sup> Section 9-19-42 provides:

The rules of evidence as adopted by the Rhode Island supreme court shall be controlling and take precedence over any statutory or case law in effect at the time of the adoption that is inconsistent with the Rhode Island rules of evidence.

<sup>6</sup> Section 8-6-2(a) provides:

(a) ... The chief magistrate of the traffic tribunal shall have the power to make rules for regulating practice, procedure, and business in the traffic tribunal. The rules of the superior, family, district court, workers' compensation court, and the traffic tribunal shall be subject to the approval of the supreme court. Such rules, when effective, shall supersede any statutory regulation in conflict therewith.

V  
Analysis

Before this Court, Ms. Jankowski presents but one claim of error — which is, that the Trial Magistrate erred in permitting the Officer to testify as to the information he obtained from the DMV database through the computer in his cruiser. Thus, the question before us falls under the broad heading of an evidentiary issue. And so, it is appropriate to recall that the Traffic Tribunal is a component of the Rhode Island judiciary.<sup>7</sup> As such, we must acknowledge the principle established in Rule 101(a) of the Rhode Island Rules of Evidence, that those rules apply in full to proceedings in the courts of this state.<sup>8</sup>

Of course, in denying the admissibility of the Officer's testimony, Ms. Jankowski does not rely on any provision of the Rules of Evidence. Instead, she places total reliance upon § 9-19-40.<sup>9</sup> In Appellant's view, this statute provides that driver's license data from DMV records may only be received into evidence in the form of certified copies. However, I believe a fair reading of § 9-19-40 contradicts this view. Its language is, as the Town argues, entirely permissive. The statute *allows* DMV license records to be received into evidence in the manner described, but it does not purport to bar a party from using any other lawful technique to achieve the admission of such evidence or testimony. Its purpose is to spare the prosecution from having to bring in a witness to authenticate the records. *See* R.I. R. EVID. 901(b)(7) *and State v. Manocchio*, 497 A.2d 1 (R.I.1985).<sup>10</sup> In

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<sup>7</sup> See G.L. 1956 § 8-15-1.

<sup>8</sup> Consequently, the admonition contained in Rule 2 of the Traffic Trib. R. P. that those rules must be construed in the light that they concern civil violations may not apply to evidentiary issues.

<sup>9</sup> Quoted in full, *supra* at 13.

<sup>10</sup> Note that R.I. R. EVID. 901(b)(10) specifically allows for other methods of authentication to be authorized by statute, thus negating any concerns of a conflict between § 9-19-40 and a court rule.

The traditional procedure was to present a witness to authenticate the public record. *See* 2

the instant case the Town could have proceeded by means of a certified copy of the records of her license, but it failed to do so; thus, § 9-19-40 is entirely irrelevant to the resolution of this appeal.<sup>11</sup>

Now, it appears, based on comments made by the Trial Magistrate and the Appeals Panel, that it may be a consensus of the Tribunal's Magistrates that it would be "unduly burdensome to require a witness from the DMV or obtain certified documents in every case." *Dec. of Appeals Panel*, at 5. One may therefore anticipate that additional cases may come before this Court on this issue. And there may well be other grounds upon which Appellant could have opposed the admission of the Officer's testimony but have not been presented by Appellant — before the Trial Magistrate, the Appeals Panel, or this Court — and therefore have not been preserved for appeal. And it is not the role of this Court to formulate alternative theories of opposition to its reception into evidence.

Finally, I believe it's necessary for this Court to comment on the Trial Magistrate's reliance on *State v. Bjerke*, 697 A.2d 1069 (R.I. 1997), since I believe it may have been misread. In *Bjerke*, a Warwick police officer on the way to intercept a possibly drunk driver was informed by his dispatcher that a DMV computer check revealed that the registration of the vehicle in question was suspended. *Bjerke*, 697 A.2d at 1070. The officer stopped the vehicle in question on that basis. *Id.* At the subsequent hearing on the refusal charge that resulted from the stop, the officer (apparently) testified that the information he received about Mr. Bjerke's registration was the justification for the stop.

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MCCORMICK ON EVID. § 226 (February 2025 Update). For examples of this being done, *see e.g. State v. Szarek*, 433 A.2d 193, 198 (R.I. 1981) (DMV records); *State v. Tavares*, 590 A.2d 867, 871-73 (R.I. 1991) (Forensic lab results).

<sup>11</sup> In addition, my reading of § 9-19-40 convinces me that it has no relevance whatsoever to the records of motor vehicle registrations. It does not purport to do so; it does not mention them. Thus, even Appellant's construction of § 9-19-40 were held to obtain, it could not have any no legal effect as to the violation of § 31-3-1 in Count Two of the instant citation.

From these facts the Trial Magistrate in the case at bar drew two lessons: (1) that Officer O’Keefe should be permitted to testify that he stopped Ms. Jankowski’s vehicle, at least in part, because he learned from the DMV database that her vehicle’s registration was suspended, and (2) that such testimony was sufficient to support a conviction. *See Trial Tr. at 10 and Decision Tr. at 9.* Now, it must be noted that in *Bjerke* the Supreme Court did not decide whether the officer’s testimony (about the results of the DMV computer check he performed) was properly admissible; neither did the Supreme Court reach the issue of whether the officer’s testimony (alone) was sufficient to sustain a conviction on the registration violation. *Bjerke*, 697 A.2d at 1072. However, it does seem that we can draw an inference from *Bjerke* that the registration information was properly received into evidence with regard to the Fourth Amendment issue of the constitutionality of the initial car stop, since the Supreme Court apparently relied upon it.<sup>12</sup>

And so, Officer O’Keefe’s testimony about his computer check was properly admitted into evidence. And it was admitted without limitation. But was it sufficient to prove the license and registration charges to the standard of clear and convincing evidence? Well, it is certainly competent evidence: the officer, after presumably being trained on the proper manner to access the DMV database, did so — and obtained a result.<sup>13</sup> The Trial Magistrate thought it was sufficient to meet this standard and this Court, like the Appeals Panel, is required to give great deference to those findings.

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<sup>12</sup> This begs the question of whether Appellant could have requested, under R. I. R. Evid. 105, that the Officer’s testimony as to the computer check on the registration be admitted for the purpose of justifying the stop under the Fourth Amendment but not on the ultimate question of the status of her registration or license. For a different circumstance under which officer testimony was received for a limited purpose, *see State v. Carr*, 844 P.2d 1377 (Idaho Ct. App. 1992) (hearing on motion to suppress).

<sup>13</sup> It must be noted that the Supreme Court, in *Bjerke*, called the results of the dispatcher’s DMV computer check as “reliable information.” *Bjerke*, 697 A.2d at 1072.

**VI**  
**Conclusion**

Upon careful review of the evidence presented and the pertinent law, I recommend that this Court find that the decision rendered by the Appeals Panel ought to be affirmed. The Panel's adjudication was supported by competent evidence and not legally erroneous insofar as it affirmed the Trial Judge's verdict on the three charges before him.

Accordingly, I find that the decision of the Appeals Panel is not clearly erroneous in the view of the reliable, probative, and substantial evidence of record; nor is it contrary to law or made upon an unlawful procedure. G.L. 1956 § 31-41.1-9(d)(3)-(5). Neither is it characterized by an abuse of discretion or a clearly unwarranted exercise of discretion. And, for the reasons stated, I must also reject Appellant's jurisdictional argument. I therefore recommend that the decision that the Traffic Tribunal Appeals Panel rendered in this matter be AFFIRMED.

\_\_\_\_\_/s/\_\_\_\_\_  
Joseph P. Ippolito  
MAGISTRATE  
MAY 28, 2026

