

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. M24-0001
	:	23408507928
YOHANNES BEIN	:	

DECISION

PER CURIAM: Before this Panel on May 1, 2024—Magistrate DiChiro (Chair), Magistrate Noonan, and Magistrate Abilheira—is the appeal of Yohannes Bein (Appellant) from a decision of Judge Nesselbush (Trial Judge) of the Pawtucket Municipal Court, sustaining the charged violation of G.L. 1956 § 31-17-3, “Yield Right of Way – Intersection with Through Highway.” The Appellant appeared pro se before this Panel. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8. For reasons set forth in this Decision, Appellant’s appeal is denied.

I

Facts and Travel

On November 23, 2023, Officer John Duffin (Officer Duffin) of the Pawtucket Police Department charged Appellant with violating § 31-17-3, “Yield Right of Way – Intersection with Through Highway.” (Summons No. 23408507928.) Appellant contested the charge, and the matter proceeded to trial on January 19, 2024. *See* Docket.

At trial, Officer Duffin testified that on November 23, 2023, he was called to the scene of an accident on the corner of Central and Robinson Avenues in Pawtucket. (01/19/2024 Tr. 19:5-6.) Upon arrival, Officer Duffin observed a white Camry resting against the exterior wall of the Teknor Apex building and decided to speak to that driver first. *Id.* at 19:23-24. The Camry

sustained damage to the left side of the vehicle. *Id.* at 8:28-9:1.

According to Officer Duffin's testimony, the Camry driver had been driving on Central Avenue when she was struck on the driver's side towards the back of the vehicle. *Id.* at 23:3-18. As a result, she lost control of her vehicle and drove over a traffic island until her car hit the exterior of the Teknor Apex building. *Id.* at 24:2-5. Officer Duffin then spoke with Appellant, the operator of the Altima, who stated that he stopped at the stop sign at the intersection of Robinson and Central Avenues with the intention to cross both lanes of traffic on Central Avenue to continue onto Burke Street. *Id.* at 31:4-32:9. He contends that the Camry driver was going too fast and hit his vehicle. *Id.* at 29:9-11. After assessing the damage to both vehicles, Officer Duffin concluded that the operator of the Altima struck the Camry as it was going west on Central Avenue. *Id.* at 26:1-4.

At trial, Appellant alleged that the Camry driver was at fault for causing the accident. *Id.* at 29:9-11. He claimed to have seen the Camry driver from approximately 10 yards away and thought he had enough time and space to cross over Central Avenue to Burke Street. *Id.* at 29:9-10. He further contends that the Camry driver was speeding and pulled in front of his car. *Id.* at 29:10-11. The Trial Judge found Officer Duffin's testimony credible and that Appellant had the responsibility to not enter the intersection unless it could be done safely. *Id.* at 38:21-22. As such, the Trial Judge found that Appellant was guilty of failure to yield the right of way at an intersection. *Id.* at 38:24-26. Aggrieved by the decision, Appellant filed this 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. 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;
- (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 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 *Environmental Scientific Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the appeals panel determines that the decision is ‘[c]learly 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. *Id.*; *see Janes*, 586 A.2d at 537.

III

Analysis

As grounds for appeal, Appellant argues that he was not at fault in the accident. Specifically, Appellant claims that the other vehicle was speeding, traffic was not heavy as stated in the summons, and Officer Duffin was not present for the accident. *See* Notice of Appeal. However, as the Trial Judge stated, she found Officer Duffin’s testimony credible, and Appellant did not offer sufficient evidence to support his version of events. (Tr. 38:12.)

A

Findings of Fact

In the instant case, the Trial Judge determined that Officer Duffin was credible and adopted his testimony as her findings of fact. The Trial Judge did not find Appellant’s explanation credible because Appellant was unable to proffer any information or evidence that would strengthen his version of events. The Trial Judge also had the opportunity to observe Appellant. This Panel cannot assess him as a witness in the same way as the Trial Judge.

In *Link v. State*, cited *supra*, our Supreme Court made it clear that this Panel “lacks 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*, 633 A.2d at 1348 (citing *Janes*, 586 A.2d at 537). The Appeals Panel is “limited to a determination of whether the hearing justice’s decision is supported by legally competent evidence.” *Marran v. State*, 672 A.2d 875, 876 (R.I. 1996).

As the members of this Panel did not have an opportunity to view the live hearing testimony of Appellant, the Panel declines to second-guess the Trial Judge’s impressions as she was able to “appraise [the] witness[’s] demeanor and to take into account other realities that cannot be grasped

from a reading of a cold record.” *A. Salvati Masonry Inc. v. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017) (internal quotations omitted). Therefore, this Panel will not disturb the Trial Judge’s credibility determinations or her assessment of the weight of the evidence in this case. *See Link*, 633 A.2d at 1348.

B

Yield Right of Way

Sec. 31-17-3 of the Rhode Island General Laws states that:

“The driver of a vehicle shall stop at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway, or which are approaching so closely on the through highway as to constitute an immediate hazard, but the driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway.” § 31-17-3.

In the instant case, Appellant had a duty to yield to oncoming traffic and only proceed if it was safe to do so. As the Trial Judge stated, “[E]ven if a car is speeding, it is still your responsibility. You can’t look and say oh my God, that car is doing 60 miles an hour. They’re in the wrong. I’m just [going to] pull right out and get hit. You can’t do that.” (Tr. 29:17-23.) “[T]he law gives the responsibility to you to not enter that intersection without being able to do so safely, and . . . you misjudged the speed of this vehicle and that you hit the rear quarter.” *Id.* at 38:21-24.

IV

Conclusion

This Panel has reviewed the entire record in this matter. 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. The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied.

ENTERED:

 /s/
Magistrate Michael DiChiro (Chair)

 /s/
Magistrate William T. Noonan

 /s/
Magistrate Allison C. Abilheira

DATE: August 6, 2024