

**STATE OF RHODE ISLAND**  
**RHODE ISLAND TRAFFIC TRIBUNAL**

<b>STATE OF RHODE ISLAND</b>	:	
	:	
v.	:	<b>C.A. No. T24-0014</b>
	:	<b>24501500377, 22501500477</b>
<b>ANTHONY NAROUZ</b>	:	

**DECISION**

**PER CURIAM:** Before this Panel on October 2, 2024—Magistrate Welch (Chair), Magistrate Noonan, and Magistrate Abilheira—is the appeal of Anthony Narouz (Appellant) from a Decision of Magistrate Kruse-Weller (Hearing Magistrate) of the Rhode Island Traffic Tribunal dated June 5, 2024 denying his Motion to Vacate two default judgments entered against him. The first default judgment sustaining the charge of violation of G.L. 1956 § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit, 1st Offense” on March 25, 2024 and the second default judgment sustaining the charge of violation of G.L. 1956 § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit, 1st Offense” on April 22, 2024. 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 February 28, 2024, Officer Shawn Couto (“Officer Couto”) of the Narragansett Police Department charged Appellant with violating § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit, 1<sup>st</sup> Offense.” (Summons No. 24501500377.) On March 25, 2024, Appellant failed to appear to his initial appearance for Summons No. 24501500377, and default was

entered against him. *See* 03/25/2024 Judgment Sheet. On April 5, 2024, the default was vacated, and the initial appearance was rescheduled for April 22, 2024. *See* 4/10/2024 Judgment Sheet. On April 22, 2024, Appellant failed to appear for this appearance, and default was entered against him again. *See* 04/22/2024 Judgment Sheet. On May 13, 2024, Appellant filed a Motion to Vacate the second default, and a hearing on the motion was scheduled for June 5, 2024. *See* 05/13/2024 Judgment Sheet.

On March 22, 2024, Officer James Holbrook (“Officer Holbrook”) of the Narragansett Police Department charged Appellant with violating § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit, 1<sup>st</sup> Offense.” (Summons No. 24501500477.) On April 22, 2024, Appellant failed to appear for his initial appearance for Summons No. 24501500477, and default was entered against him. *See* 4/22/2024 Judgment Sheet.

On May 8, 2024, Appellant filed a Consolidated Motion to Vacate both default judgments entered under each of the aforementioned Summons numbers (the “Consolidated Motion”), and the Consolidated Motion was heard by the Hearing Magistrate on June 5, 2024. *See* Docket.

At the hearing, Appellant, as a basis for his Consolidated Motion to vacate both default judgments, set forth that he didn’t have transportation to court on one occasion and had a final exam at his school on the other. The Hearing Magistrate considered the Appellants’ Consolidated Motion and was unpersuaded by the reasons or basis presented by the Appellant as to why he missed multiple court appearances on both summonses. (05/05/2024 Tr. at 5:2-6, 25:27.) Appellant also stated that his driving privileges in Massachusetts, where he holds his license, were suspended. Tr. at 7:23. Appellant failed to provide sufficient proof as to why he missed the court dates. Appellant claimed he had a final exam at school but could not provide evidence of

the exam. Tr. at 10:18-21. Appellant submitted to the Hearing Magistrate an apparent syllabus, but that indicated that Appellant would have known of the final exam date well before he received either of the traffic violations in question. Tr. 18: 18-27. Appellant failed to present to the Court legitimate and valid grounds that met the standard for “excusable neglect” in order to grant the Consolidated Motion. As a result, the Hearing Magistrate denied Appellant’s Consolidated Motion to Vacate both Default Judgments.

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

Rule 20 of the Rhode Island Traffic Tribunal’s Rules of Procedure related to “Relief from Judgement or Order” sets forth grounds for which the moving party can assert to be granted.

Rule 20 reads:

The 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;
- (b) Newly discovered evidence;
- (c) Fraud, misrepresentation, or misconduct of an adverse party;
- (d) The judgment or order is void;
- (e) The judgment or order has been satisfied, released, or discharged, or the judgment or order is no longer equitable that the judgment or order should have prospective application; or
- (f) Any other reason justifying relief from the operation of the judgment, or order, including that relief is warranted in the interests of justice.

The duty or responsibility of this Panel is whether to affirm, reverse or modify the Decision of the Hearing Magistrate dated June 5, 2024, or to remand the Consolidated Motion for further proceedings. “It is a well-established principle in Rhode Island that a motion to vacate a default judgment is within the [sound] discretion of the trial justice before whom the motion is brought. Such findings will not be disturbed upon appeal unless there is an error of law or an abuse of that discretion.” *Phoenix Construction Co., Inc. v. Hanson*, 491 A.2d 330, 332 (R.I. 1985) (citing *Friendly Homes, Inc. v. Shareholders and Creditors of Royal Homestead Land Co.*, 477 A.2d 934, 937 (R.I. 1984)).

Additionally, to prevail on a Rule 20 motion, Appellant would have needed to prove to the satisfaction of the Hearing Magistrate that his failure to appear on the scheduled trial dates were due to “excusable neglect.” *See* RI. R. Traf. Trib. R. 20(a). The burden is on Appellant to show that his “failure to take the proper steps at the proper time [was] not in consequence of [his] own carelessness, inattention, or willful disregard of the process of the court, but in consequence of some unexpected or unavoidable hindrance or accident.” *Jacksonbay Builders, Inc. v. Azarmi*, 869 A.2d 580, 584 (R.I. 2005). Nothing provided by Appellant gives rise to something that meets the excusable neglect standard

In this case, Appellant has failed to establish any of the reasons set forth in Rule 20(a)-(f) that would allow relief from the Default Judgments of this Court related to both summonses. Appellant did not provide sufficient evidence, argument, or justification to warrant altering the Hearing Magistrate’s Decision to deny the Consolidated Motion to Vacate.

The Hearing Magistrate properly denied Appellant’s Consolidated Motion as no valid reasons were presented to the Court, including, but not limited to, the lack of transportation to Court, school commitments which he was aware of prior to the summonses being issued to him

and for repeated failure to appear on more than one occasion related to these summonses. *See* R.I. R. Traf. Trib. R. 17.

The record shows that the Hearing Magistrate properly ruled that Appellant's violations remain, and the penalties he owes still stand. Tr. at 10:6-8. After a thoughtful review of the record, this Panel feels that it may not overrule the "credibility" of the Hearing Magistrate, nor do we feel we may "substitute [our] judgment for that of the hearing [magistrate]." *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)). As such, the decision of the Hearing Magistrate must stand, as nothing indicates to the contrary.

Appellant must be aware that they have a responsibility to obey the rules of the road for the "common safety" of others. *Andrews v. Penna Charcoal Co.*, 179 A. 696, 699 (R.I. 1935). These rules are in place "to promote the orderly and safe flow of traffic" for all drivers. *Berman v. King Union Co.*, 94 A.2d 428, 431 (R.I. 1953). Appellant is required to obey this state's rules and recognize that compliance with the Rhode Island Traffic Tribunal's procedural requirements is an essential aspect of participating in this process. His repeated failures to appear and his lack of evidence to justify excusable neglect undermine his appeals. The Hearing Magistrate's Decision, which the record shows is clearly rooted in procedural and substantive standards, appropriately reflects Appellant's disregard for these obligations. Therefore, there is no basis for this Panel to disturb the Hearing Magistrate's findings. Consequently, the decision denying the motion to vacate the default judgment is affirmed.

## IV

### Conclusion

This Panel has reviewed the entire record in this matter. Having done so, the members of this Panel are satisfied that the Hearing 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:

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/S/  
Magistrate Mark Welch (Chair)

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/S/  
Magistrate William T. Noonan

\_\_\_\_\_  
/S/  
Magistrate Allison C. Abilheira

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