

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T24-0024
	:	24411501414
ASHLEY JANKOWSKI	:	

DECISION

PER CURIAM: Before this Panel on January 22, 2025—Magistrate DiChiro (Chair), Magistrate Noonan, and Magistrate Abilheira—is the appeal of Ashley Jankowski (Appellant) from a decision of Magistrate Mark Welch (Trial Magistrate) of the Rhode Island Traffic Tribunal, dated October 9, 2024, sustaining the charged violations of G.L. § 31-11-18(a), “Driving With Suspended/Revoked/Cancelled License – 1st Offense,” G.L. § 31-3-1, “Operation of Unregistered Vehicle,” and G.L. § 31-24-23, “Use of Multiple Beam Lamps.” (Summons No. 24411501414). Appellant’s counsel, John B. Harwood, Esq., appeared 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 August 12, 2024, at approximately 1:10 a.m., Officer Gavin O’Keefe (“Officer O’Keefe”) of the Smithfield Police Department was observing traffic at or around Route 44 Putnam Pike and Smith Avenue in Smithfield, Rhode Island when he witnessed a white Mazda CX-5 drive past him going eastbound. (10/07/2024 Tr. at 9:20-22.) Officer O’Keefe testified that the vehicle in question flashed its high-beams at another vehicle traveling westbound towards the

Officer. *Id.* at 10:4-6. Officer O’Keefe proceeded to travel behind the Mazda, checked the registration displayed on the vehicle, showing the registration was cancelled. *Id.* at 10:10-12.

Officer O’Keefe initiated a traffic stop in the area of Putnam Pike and Hattie Avenue. *Tr.* at 13:8-9. The operator of the vehicle identified herself as “Ashley O'Donnell,” with a date of birth of November 4, 1992. *Id.* at 14:4-5. However, the motorist did not have a driver’s license on her person, nor did she possess any paperwork related to the vehicle’s registration or insurance. *Id.* at 14:13-14. The officer testified that the motorist struggled to provide consistent and accurate identifying information, including difficulty spelling her name and providing conflicting details about the status of her license. *Id.* at 14:19-21. The motorist believed that her Rhode Island license was expired but claimed to hold a valid Massachusetts license. *Id.* at 14:26-28. Upon further investigation, Officer O’Keefe determined that no license records existed for the name “Ashley O'Donnell” in either Massachusetts or Rhode Island. *Id.* at 15:4-6.

Subsequent checks by Officer O’Keefe revealed that the vehicle he stopped had been frequently operated by an Ashley Jankowski, born November 4, 1992. *Id.* at 15:13-14. Using booking photos and tattoo information linked to prior arrests, Officer O’Keefe positively identified the motorist as Ashley Jankowski (“Appellant”). *Id.* at 16:11-16. 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. *Id.* at 17:1-2. Additionally, Appellant had an active bench warrant issued on May 29, 2024, stemming from a shoplifting charge in Warwick. *Id.* at 17:1-2. Appellant was arrested at the scene and issued a summons for three violations: driving with a suspended license, first offense; operating an unregistered vehicle; and improper use of multiple-beam headlights. *Id.* at 17:3-5.

Trial commenced on October 7, 2024, and Appellant, through counsel, challenged the admissibility of Officer O’Keefe’s testimony regarding the status of the vehicle’s registration and Appellant’s license, arguing that such testimony constituted inadmissible hearsay under Rhode Island Rules of Evidence. *Id.* at 10:21–12:28. Relying on *State v. Lizardo*, R.I. Traffic Trib. App. Panel, T11-0021 (May 4, 2012), counsel asserted that only certified records from the Rhode Island Division of Motor Vehicles could be used to prove the status of a license or registration, and that in the absence of such documents, the charges must be dismissed. *Id.* at 10:21–11:9. Counsel further emphasized that Officer O’Keefe had no personal knowledge of Appellant’s prior operation of the vehicle and that his reliance on DMV database information could not satisfy the Town’s burden of proof.

At the conclusion of trial, the matter was taken under advisement by the Trial Magistrate. On October 9, 2024, the Trial Magistrate issued a bench decision sustaining all three violations, finding Officer O’Keefe’s testimony to be credible and professional and ruled that the Town had proven each charge by clear and convincing evidence. In rejecting Appellant’s hearsay-based objections under *State v. Lizardo*, the Trial Magistrate instead relied on *State v. Bjerke*, 697 A.2d 1069 (R.I. 1997), concluding that Officer O’Keefe was entitled to rely on information obtained from the DMV via his cruiser computer. (10/09/2024 Tr. at 6:19–9:26.) The Trial Magistrate imposed the minimum fines for each violation, resulting in a finding of guilty after trial. *Id.* at 12:5–8.

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 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 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

The central issue on appeal is whether the Trial Magistrate erred by permitting Officer O’Keefe’s testimony 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). Appellant argues that such testimony constitutes inadmissible hearsay, citing *State v. Lizardo*, and contending that only certified DMV records can prove the suspension of a license or the status of a registration. However, this Panel affirms the Trial Magistrate’s well-reasoned rejection of that argument, and instead upholds the applicability of *State v. Bjerke*, as the controlling authority.

It is the general policy of this Tribunal to rely on precedent from the Rhode Island Supreme Court whenever available. In *Bjerke*, the Supreme 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 or registration was valid. *Bjerke*, at 1071. There, as here, the defendant challenged the admissibility of evidence concerning the status of a motorist’s credentials, but the Supreme Court concluded that the officer’s reliance on information obtained through official DMV channels was sufficient. *Id.* at 1073. The Court’s logic applies here, recognizing that it would be unduly burdensome to require a witness from the DMV or obtain certified documents in every case.

This Appellate Panel further agrees with the Trial Magistrate's assessment of Officer O'Keefe's credibility. The record reflects that the officer testified clearly, candidly, and consistently, and the Trial Magistrate expressly incorporated the officer's testimony into his findings of fact. This Tribunal is bound to defer to the factual findings and credibility determinations of the Trial Magistrate unless clearly erroneous, which is not the case here. *See Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993).

Further, Appellant's reliance on *Lizardo* is unavailing. To the extent *Lizardo* may be interpreted as requiring the State to produce certified DMV records in every case involving license or registration violations, this Panel expressly declines to follow that interpretation. Notably, *Lizardo* has not been adopted or endorsed by the Rhode Island Supreme Court. Its reasoning is unpersuasive in cases such as this, where a law enforcement officer testifies credibly based on real-time information accessed through an official state database.

Appellant also invokes G.L. 1956 § 9-19-40, which provides that "[a] copy of any certificate or record of the division of motor vehicles... shall be admissible as evidence in the courts of this state." While the statute makes certain DMV records admissible, it does not require their use in every case. The statute is permissive, not mandatory; it allows such records to be introduced but does not place a corresponding burden on the prosecution to introduce them as a prerequisite to proving a violation. As the statute states that the records "shall be admissible," it merely creates an evidentiary shortcut, not a compulsory standard. To read it otherwise would transform a permissive provision into an inflexible mandate, contrary to both the statutory text and the practical realities of traffic enforcement.

The Trial Magistrate did not err in allowing Officer O'Keefe's testimony regarding the DMV status of Appellant's license and registration. The testimony was properly admitted, was

found credible, and satisfied the clear and convincing evidence standard applicable in these proceedings.

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 Abilheira

DATE: May 1, 2025