STATE OF RHODE ISLAND

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	**:**	
	:	
v.	**:**	**C.A. No. T25-0008**
	:	**25001600603**
DANIEL DELBONIS	**:**	

DECISION

PER CURIAM: Before this Panel on September 24, 2025—Magistrate Noonan (Chair), Chief Magistrate DiSandro, and Magistrate Welch—is the appeal of Daniel Delbonis (Appellant) from a decision of Magistrate Landroche of the Rhode Island Traffic Tribunal, sustaining the violation of G.L. 1956 § 31-27-2.1(c)(1) "Refusal to Submit to Chemical Test." Appellant appeared through his attorney, Attorney John B. Harwood (Attorney Harwood). Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8. For reasons set forth in this Decision, Appellant's appeal is granted in part.

I

Facts and Travel

This case arose out of a motor vehicle accident on March 24, 2025 on Route 295 South in the Town of Johnston. *See* Tr. 11: 2-19. State Police Headquarters received a 911 call from an unknown party reporting a hit and run accident. *Id.* State Trooper Hailey Hawkins (Trooper Hawkins) was dispatched to the scene of the accident and spoke with the complaining witness who stated his vehicle had been struck by a truck which fled the scene. *Id.* No description of the truck or its operator was provided to Trooper Hawkins. *Id.*

Johnston Fire Department was also dispatched to assist at the scene. While clearing the accident scene, Johnston Fire located, commercial license plate 10059, in the area, which was

surrendered to Trooper Hawkins. *Id.* Trooper Hawkins researched the plate number and determined the plate was registered to Chef's Choice, Inc., a Rhode Island corporation, with an address of 7 Cassandra Court, Cranston, RI. *Id.*

Approximately one-half hour later Trooper Hawkins responded to the above address and observed a blue Dodge Ram with front end damage and no front plate displayed, parked in the driveway at the home of Appellant. *Id.* Upon closer inspection of the Dodge Ram truck, Trooper Hawkins observed a matching commercial license plate, 10059, affixed to the trucks rear bumper. *Id.* No further inspection of the vehicle was performed to determine if the vehicle had been operated recently.

Trooper Hawkins then presented herself at the front door of 7 Cassandra Court. *Id.* Upon speaking with Carrie Delbonis, the partner of Appellant, it was learned he was upstairs in bed sleeping. *Id.* Appellant was asked to come downstairs where Trooper Hawkins continued her investigation. *Id.* Appellant made no assertions as to what had occurred with his companies truck; who had operated it recently, the cause of its front end damage, or why its front plate was missing and located on Route 295 at the scene of a hit and run accident. *Id.*

When asked about the damage done to his vehicle, Appellant shrugged and told Trooper Hawkins he didn't know. Tr. 40: 17-19. Appellant explained that he had been at dinner prior to parking his truck. *Id.*

Suspicious of the Appellant's condition, Trooper Hawkins requested he submit to a series of field sobriety tests in his home.[1] *Id.* Appellant was unable to perform any of the tests, with Trooper Hawkins testifying that, he did admit to drinking. Tr. 47: 18-19. After the sobriety tests,

[1] As indicated on the record, there was no field sobriety test in the traditional sense, with the parties stipulating that these sobriety tests were not taken after a traffic stop or in a field. Rather, they were performed in the Appellant's home. Tr. 43: 24-26.

Trooper Hawkins arrested the Appellant, and placed him in custody. She then read Appellant his rights for use at scene and placed him in her cruiser. *Id.* Trooper Hawkins then transported Appellant to the Rhode Island State Police headquarters. *Id*.

Trooper Hawkins testified, at the headquarters, she read the Appellant his implied consent rights for use at station form. *Id*. Appellant nodded in understanding to the contents of the form and denied his one phone call. Tr. 13: 12. Appellant also refused to submit to a chemical test, at Trooper Hawkins request. Trooper Hawkins recorded Appellant's refusal and prepared and executed a sworn affidavit of law enforcement. *Id*. She charged Appellant with G.L. 1956 § 31-27-2.1(c)(1) "Refusal to Submit to Chemical Test", G.L. 1956 § 31-15-12 "Following too Closely", and G.L. 1956 § 31-33-2 "Failure to File an Accident Report." *Id*.; *see* Summons No. 25001600603.

After hearing all the evidence provided by the parties, the Court sustained the violation of G.L. 1956 § 31-27-2.1(c)(1) "Refusal to Submit to Chemical Test." The Trial Magistrate dismissed the other charges because there was a lack of clear and convincing evidence that the Appellant violated G.L. 1956 § 31-15-12 "Following too Closely" and G.L. 1956 § 31-33-2 "Failure to File an Accident Report." Aggrieved by the decision, Appellant 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. 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

Appellant argues that the Trial Magistrate erred by sustaining the violation of G.L. 1956 § 31-27-2.1(c)(1) "Refusal to Submit to Chemical Test." He argues that the state failed to

provide clear and convincing evidence of his violation of § 31-27-2.1(c)(1). *See generally* App.'s Mem. In Supp. Of Appeal. Further, Appellant argues that Trooper Hawkins lacked the necessary reasonable suspicion to charge him under G.L. 1956 § 31-27-2.1(c)(1). *Id.*

Refusal violations are a civil charge. *See* G.L. 1956 § 31-27-2.1. When citizens operate a vehicle in Rhode Island, that driver "impliedly promises to submit to a chemical test designed to measure the amount of alcohol in his or her blood whenever a police officer has reasonable grounds to believe he or she has driven while under the influence of liquor." *Colleen Lawrence v. State of Rhode Island*, A.A. No. 13-139, 1, 13 (April 29, 2014), Chief J. LaFazia. If a driver refuses to submit to a test, he or she may be charged with violating G.L. 1956 § 31-27-2.1. *Id.*

In Rhode Island, it is well settled that the clear and convincing standard is the burden of proof for refusal cases. *See* Traffic Trib. R. P. 17(a). In refusal cases, the burden of proof falls on the State of Rhode Island. *Id.* The state must prove, through clear and convincing evidence, that the accused was intoxicated at the time of the refusal. *Id.* The degree of proof needed to fulfill the clear and convincing standard is "different from a satisfaction by a 'preponderance of the evidence' which is the recognized burden in civil actions and from proof 'beyond a reasonable doubt' which is the required burden in criminal suits." *Parker v. Parker*, 103 R.I. 238 A.2d 57, 60–61 (1968).

A party must "produce in the mind of the factfinder a firm belief or conviction that the allegations in question are true" to admit clear and convincing evidence of a refusal to submit. *Luis v. Gaugler*, 185 A.3d 497, 503 n. 9 (R.I. 2018) (citing *Rhode Island Mobile Sportfishermen, Inc. v. Nope's Island Conservation Association, Inc.*, 59 A.3d 112, 121 n.16 (R.I. 2013) (quoting *Cahill v. Morrow*, 11 A.3d 82, 88 n.7 (R.I. 2011)). The clear and convincing evidence standard

does not require that the evidence negate all reasonable doubt or that the evidence must be uncontroverted." *Id.*

The civil charge of refusal to submit a chemical test is set forth in subsection 31-27-2.1(d).[2] It contains four elements. They are: one, that the officer had reasonable grounds to believe that the motorist had driven while intoxicated; two, that the motorist, having been placed in custody, refused to submit to a chemical test; three, that the motorist was advised of his rights to an independent test; and four, that the motorist was advised of the penalties that are incurred for a refusal.[3] The state must also prove that the initial stop was legal.[4] And it must also show that the motorist was notified of his or her right to make a confidential telephone call for the purposes of obtaining an attorney or securing bail.[5]

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[2] The charge of refusal states:

> . . . If the judge finds after the hearing that:
> (1) The law enforcement officer making the sworn report had reasonable grounds to believe that the arrested person had been driving a motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any combination of these;
> (2) The person, while under arrest, refused to submit to the tests upon the request of a law enforcement officer;
> (3) The person had been informed of his or her rights in accordance with § 31-27-3; and
> (4) The person had been informed of the penalties contained in the implied consent notice set forth in subsection (c)(10) of this section, the judge shall sustain the violation. The judge shall then impose the penalties set forth in subsection (c) of this section. Action by the judge must be taken within seven (7) days after the hearing or it shall be presumed that the judge has refused to issue his or her order of suspension.

[3] G.L. 1956 § 31-27-2.1(d), supra n. 2.

[4] *State v. Bruno*, 709 A.2d 1048, 1050 (R.I. 1998); *see also State v. Jenkins*, 673 A.2d 1094, 1097 (R.I. 1996) and *State v. Pacheco*, 161 A.3d 1166, 1175-76 (R.I. 2017).

[5] G.L. 1956 § 12-7-20 provides in pertinent part: Any person arrested under the provisions of this chapter shall be afforded, as soon after being detained as practicable, not to exceed one hour from the time of detention, the opportunity to make use of a telephone for the purpose of securing an attorney or arranging for bail; . . . . The telephone calls afforded by this section shall be carried out in such a manner as to provide confidentiality between the arrestee and the recipient of the call.

In refusal prosecutions, the state need not show that the motorist was operating under the influence[6] – or even that the officer had probable cause to arrest for that charge.[7] In essence, a refusal charge is not an alternative type of drunk driving prosecution, or a prosecution for anything that a motorist did or failed to do on the highway; instead, it is an offense against a part of Rhode Island's regulatory scheme for identifying drunk drivers on our highways.

In this instant case Appellant contends that the state failed to fulfill the first element of the statute. G.L. 1956 § 31-27-2.1 requires:

. . . At the initial traffic tribunal appearance, the magistrate shall review the incident, action, and/or arrest reports submitted by the law enforcement officer to determine if there exists reasonable grounds to believe that the person had been driving a motor vehicle while under the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination thereof. . .

See G.L. 1956 § 31-27-2.1(b)(1).

Held by the elements of G.L. 1956 § 31-27-2.1 and upon review of the record this Panel finds that the state failed to fulfill the first element above because it could not show that Trooper Hawkins had reasonable grounds "to believe that the person had been *driving* a motor vehicle while under the influence of intoxicating liquor. . ." *Id.* (emphasis added).

When arriving at 7 Cassandra Court in Cranston, Rhode Island, Trooper Hawkins witnessed the truck, owned by Chef's Choice, Inc., in the residential driveway, and observed that it had front end damage with a back plate matching the plate found at the scene of the accident.

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[6] Supra n. 4 at 1050; *State v. Hart*, 694 A.2d 681, 682 (R.I. 1997).
[7] *Jenkins*, 673 A.2d at 1097 (addressing the Appellant's collateral estoppel claim, the Supreme Court finds the district court's determination of no probable cause in the DUI case is "unrelated to and irrelevant in [refusal] trial…")

Upon entering the dwelling, she made contact with Appellant who had been upstairs in bed sleeping. She observed general physical signs of intoxication, including smelling of alcohol on the Appellant's breath, further observing slurred speech, blood-shot eyes and stumbling motions. Despite this, the trooper failed to collect evidence that could reasonably establish that the Appellant operated the corporate vehicle involved in the motor vehicle accident *while* in the observed physical state. Trooper Hawkins failed to include in her report if she had questioned Appellant on when he had started consuming alcohol that evening.

Additionally, Trooper Hawkins failed to investigate if the corporate truck had been driven by another individual that evening. The truck is a business vehicle, with other employees of Chef's Choice, Inc. potentially having access to the Dodge Ram. Trooper Hawkins also failed to ask if another individual at 7 Cassandra Court had driven the vehicle that evening. Carrie Delbonis was not questioned on whether she had driven the corporate truck; if she had seen the Appellant operate the Dodge Ram when he arrived home, or how long he had been at the home. When the trooper arrived at 7 Cassandra Court, the only information known to her was the name of the vehicles registered corporate owner, Chef's Choice, Inc.

Further, Trooper Hawkins was unaware of how the registration plate came to be on the side of the highway. She failed to report if the plate had been found because of the accident or if it was merely discovered on the roadway proximate to the scene of the accident.

On the night of March 24, 2025, Trooper Hawkins was unaware of the exact time of the accident on Route 295. At the scene of the accident, she was unaware of the driver's race, age, gender and/or ethnicity as no description of the vehicle's operator had been furnished. The trooper failed to see the Appellant operate the motor vehicle at either the scene of the accident or

at 7 Cassandra Court. Finally, the trooper failed to obtain any admission of operation from the Appellant on the night of the accident.

The Appellant argues that the State of Rhode Island failed to show that Trooper Hawkins had the necessary reasonable suspicion to conduct an investigatory stop upon suspicion of him driving under the influence. *See generally* App.'s Mem. In Supp. Of Appeal.

A police officer "may conduct an investigatory stop, provided the officer has a reasonable suspicion based on specific and articulable facts that the person detained is engaged in criminal activity." *State v. Pires*, 316 A.3d 701, 706 (2024) *(citing State v. Abdullah*, 730 A.2d 1074, 1076 (1999) (brackets omitted) (quoting *State v. Halstead*, 414 A.2d 1138, 1147 (1980))). To determine whether the suspicions of an officer "are sufficiently reasonable to justify an investigatory stop, the Court must take into account the totality of the circumstances." *State v. Casas*, 900 A.2d 1120, 1131 (R.I. 2006) (citing *United States v. Cortez*, 449 U.S. 411, 417 (1981)).

Regarding the first element as set forth in subsection 31-27-2.1(d), that the officer had reasonable grounds to believe that the motorist had driven while intoxicated, when taking in the totality of the circumstances into Trooper Hawkins's calculus we find Trooper Hawkins clearly lacked sufficient credible evidence from her investigation, both at the motor vehicle accident scene she was dispatched to and at Appellants residential address to conclude by clear and convincing evidence that Appellant had operated a vehicle while intoxicated.

IV

Conclusion

This Panel has reviewed the entire record in this matter. Upon review, this Panel has found that the state failed to prove through clear and convincing evidence that Appellant violated G.L. 1956 § 31-27-2.1(c)(1). Accordingly, Appellant's appeal to the violation of G.L. 1956 § 31-27-2.1(c)(1) "Refusal to Submit to Chemical Test" is granted.

ENTERED:

_____/S/_____
Magistrate Noonan (Chair)

_____/S/_____
Chief Magistrate DiSandro

_____/S/_____
Magistrate Welch

DATE:

_March 9, 2026____