

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T25-0021
	:	25001611568
BRITTANY VICK	:	

DECISION

PER CURIAM: Before this Panel on November 19, 2025— Administrative Magistrate DiChiro (Chair), Magistrate Kruse Weller, and Magistrate Welch—is the appeal of Brittany Vick (Appellant) from a decision of Administrative Magistrate Abbate of the Rhode Island Traffic Tribunal, sustaining the charged violations of G.L. 1956 § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit – First Offense”, G.L. 1956 § 31-15-5 “Overtaking on Right” and G.L. 1956 § 31-1 5-6 “Clearance for Overtaking.” 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, in part, with the Panel granting the appeal of G.L. 1956 § 31-15-6 “Clearance for Overtaking.”

I

Facts and Travel

On July 4, 2025, Trooper Colton Carr (Trooper Carr) of the Rhode Island State Police charged Appellant with the aforementioned charges. *See* Summons No. 25001611568. Appellant contested the charges and the matter proceeded to trial on October 2, 2025.

Trooper Carr testified that on July 4, 2025 at approximately 4:05 PM, he was on a fixed radar post on Route 295 in Cumberland, Rhode Island. Tr. 5: 27-28. While in his cruiser, he

observed a white Honda Accord bearing a Massachusetts registration plate of 8RX632, traveling southbound towards him in the right lane. *Id.* He observed the vehicle traveling faster than the normal flow of traffic, with the front radar of his vehicle notifying him it was traveling at 102 miles per hour in a posted 65 MPH zone. *Id.* He left his fixed radar post to initiate a traffic stop and observed the vehicle overtake multiple vehicles on the right while changing lanes without proper clearance. *Id.* Trooper Carr “caught up” to the vehicle outside of the Route 146 South off-ramp from 295 South. *Id.* As he initiated the traffic stop, he identified the operator of the vehicle as the Appellant. *Id.*

Trooper Carr testified that at the commencement of his shift, he “physically checked the radar unit – the Stalker DUAL Radar Unit – and marked Division Cruiser 269 internally and externally with the use of [two] tuning forks and . . . found it to be in proper working condition.” Tr. 6: 1-5. He further testified that he was trained at the Rhode Island State Police academy in 2024 and is certified in the use of radar technology. *Id.*

After the Trooper’s testimony, Appellant was afforded the opportunity to cross-examine the trooper but declined that opportunity. *Id.* Appellant then testified in her own defense. *Id.* Appellant presented dash camera footage and body camera footage from July 4, 2025 on her phone, which the Trial Magistrate reviewed during trial. *See* Tr. 14: 15-16. The Trial Magistrate reviewed the footage but could not formally admit it into evidence due to the lack of a proper foundation and the lack of a physical copy of the footage. Tr. 16: 5-7. The Trial Magistrate observed a white vehicle in the videos but could not make out a registration plate. *Id.*

After hearing all the evidence, the Trial Magistrate found the testimony of Trooper Carr to be the most credible. *See* Tr. 17: 26-27. The Trial Judge found Appellant guilty of the violations by clear and convincing evidence. 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 (RITT) 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 Judge erred by sustaining the aforementioned violations. Appellant argues that the Trooper’s testimony was not the most credible and that the Trial Magistrate overlooked how she presented “hard evidence that was shared with [her] directly from the State Trooper’s dash cam and body cam.” See *generally* (App.’s Mem. In Supp. Of Appeal (App.’s Mem.)).

A. Speeding

In *State v. Sprague*, 322 A.2d 36 (1974), the Rhode Island Supreme Court held that in order for radar unit readings to be admissible as evidence during trial, a testifying officer must satisfy two preliminary requirements: the officer must show that “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method,” and provide “testimony setting forth [the officer’s] training and experience in the use of a radar unit[.]” *Sprague*, 322 A.2d at 39-40.

First, Trooper Carr testified during trial that the radar in his vehicle was “tested within a reasonable amount of time and by an appropriate method” in that he “physically checked the radar unit . . . and marked Division Cruiser 269 internally and externally with the use of 2 tuning forks and . . . found it to be in proper working condition.” See Tr. 6: 1-5. Trooper Carr explained the method in which he tested the radar calibration with a tuning fork and that it was tested on July 4, 2025. *Id.* Therefore, Trooper Carr testified properly to the operational efficiency of the radar unit

in his vehicle, satisfying the first requirement of *Sprague*. *See Sprague*, 322 A.2d at 39-40.

Second, Trooper Carr also provided “testimony setting forth [his] training and experience in the use of a radar unit” by testifying that he was trained at the Rhode Island State Police academy in 2024 in the methods of using radar and is certified in its use. *See* Tr. 6: 1-5. Thus, Trooper Carr satisfied the second requirement of *Sprague*. *See Sprague*, at 39-40.

B. Overtaking on the Right

R.I. G.L. § 31-15-5 provides that motorists may overtake and pass upon the right of another vehicle only under certain conditions: when the vehicle being overtaken is (1) making or is about to make a left turn; or (2) upon a one-way street, or upon any roadway where traffic is restricted to one direction of movement, provided that, the roadway is free from obstructions and the roadway is of sufficient width for two or more lines of moving vehicles.

Additionally, the statute limits overtaking and passing another vehicle upon the right “only under conditions permitting the movement in safety” and further prohibits “driving off the pavement or main-traveled portion of the roadway.” *See* R.I. Gen. Laws § 31-15-5(b).

At trial, Trooper Carr testified that he observed Appellant traveling southbound on Route 295, “overtake several vehicles on the right prior to conducting a traffic stop and change lanes without proper clearance to overtake such vehicles.” Tr. 6: 22-25. In the findings of fact, supported by the testimony of Trooper Carr and the footage presented by Appellant, the Trial Magistrate found that Appellant had violated G.L. 1956 § 31-15-5 “Overtaking on Right” on July 4, 2025. Tr. 18: 4-13.

Appellant’s appeal of G.L. 1956 § 31-15-5 “Overtaking on Right” is denied because the violation was supported by Trooper Carr’s testimony, which the Trial Magistrate found to be the most credible. *See* Tr. 18: 4-9.

C. Credibility

In Appellant's Notice of Appeal and arguments at trial, she argues that the Trial Magistrate erred in finding Trooper Carr's testimony as credible because she presented "hard evidence that was shared with [her] directly from the State Trooper's dash cam and body cam." *See generally* (App.'s Mem. In Supp. Of Appeal (App.'s Mem.)). However, after weighing all of the evidence and testimony presented, the Trial Magistrate found that in fact Appellant was speeding based on Trooper Carr's testimony concerning this traffic stop, which the Trial Magistrate found to be the most credible. *See* Tr. 18: 4-9.

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*, at 1348. Since the members of this Panel did not witness the live testimony of Trooper Carr and do not have access to the footage observed by the original Trial Magistrate, it would be impermissible for the Panel to question the Trial Magistrate's impression of Trooper Carr. The Trial Magistrate 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. Andreozzi*, 151 A.3d 745, 749 (R.I. 2017) (internal quotations omitted).

This Panel's review is governed by a limited standard. Pursuant to § 31-41.1-8(f), this Tribunal "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 only reverse or modify if the trial court's decision is clearly erroneous, affected by error of law, or constitutes an abuse of discretion. *See Link* at 1348; *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991).

The record demonstrates that the Trial Judge’s decision was supported by clear and convincing evidence. Accordingly, the finding of guilt was neither clearly erroneous nor affected by error of law.

D. Clearance for Overtaking

Furthermore, Appellant’s appeal of G.L. 1956 § 31-15-6 “Clearance for Overtaking” is granted. This violation was not supported by relevant testimony and there is a lack of a findings of fact in the record.

When a Trial Magistrate sits as the fact finder, he or she must make findings of fact and conclusions of law on the record so that a reviewing court may “pass upon the appropriateness of the order and the grounds upon which it rests.” *Now Courier, LLC v. Better Carrier Corp.*, 965 A.2d 429, 434 (R.I. 2009) (quoting *Chiaradio v. Falck*, 794 A.2d 494, 496 (R.I. 2002)). A Trial Magistrate’s findings “must contain . . . a factual finding and a conclusion of law on *each* cause of action adjudicated.” *Cathay Cathay, Inc. v. Vindalu, LLC*, 136 A.3d 1113, 1119 (R.I. 2016) (citing *Cathay Cathay, Inc. v. Vindalu, LLC*, 962 A.2d 740, 747-48 (R.I. 2009)) (emphasis added).¹

G.L. 1956 § 31-15-6 “Clearance for Overtaking” provides that “[n]o vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any

¹ Additionally, Chapter 41.1, title 31 governs hearings held at the Rhode Island Traffic Tribunal and it provides: After due consideration of the evidence and arguments, the judge or magistrate shall determine whether the charges have been established, and appropriate findings of fact shall be made on the record. If the charges are not established, an order dismissing the charges shall be entered. If a determination is made that a charge has been established or if an answer admitting the charge has been received, an appropriate order shall be entered in the records of the traffic tribunal.

vehicle overtaken.”

Trooper Carr testified he observed Appellant’s vehicle “change lanes without proper clearance to overtake” other vehicles, however, there is no testimony or evidence that the motorist’s vehicle was driven to the left side of the center of the roadway to overtake and pass another vehicle. There is also no testimony showing Appellant’s vehicle attempting to pass into incoming traffic that would interfere with the “safe operation of any vehicle approaching from the opposite direction.” The findings of fact are lacking analysis that attaches the elements of G.L. 1956 § 31-15-6 to the Appellant’s actions.

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 regarding G.L. 1956 § 31-14-2 "Speeding 11+ MPH in Excess of Posted Speed Limit – First Offense" and G.L. 1956 § 31-15-5 "Overtaking on Right" 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. This appeal is denied as to the above two counts. However, this Panel finds that the State failed to prove through clear and convincing evidence that Appellant violated G.L. 1956 § 31-15-6 "Clearance for Overtaking." Therefore, Appellant's appeal is granted only to § 31-15-6 and the violation of Clearance for Overtaking is dismissed.

ENTERED:

_____/S/
Administrative Magistrate DiChiro (Chair)

_____/S/
Magistrate Kruse Weller

_____/S/
Magistrate Welch

DATE: Aug. 31, 2026