

STATE OF RHODE ISLAND
RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T26-0002
	:	25413500639
ANDREW DEMALIA	:	

DECISION

PER CURIAM: Before this Panel on April 1, 2026—Administrative Magistrate DiChiro (Chair), Chief Magistrate DiSandro, and Magistrate Landroche—is the appeal of Andrew DeMalia (Appellant) from a decision of Magistrate Noonan 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.” Appellant did not appear 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 13, 2025, Sergeant Dennis Smith (Sergeant Smith) of the Foster Police Department charged Appellant with the aforementioned charges. *See* Summons No. 25413500639. Appellant contested the charges and the matter proceeded to trial on January 16, 2026. *See* Docket.

Sergeant Smith testified on November 13, 2025 at approximately 2:15 PM, he observed Appellant operating a vehicle eastbound on Danielson Pike in the town of Foster, Rhode Island. Tr. 5: 19-21. Sergeant Smith testified he was driving in the right-hand lane, heading eastbound at approximately 51 miles per hour, with Appellant passing him in the left lane. *Id.* Sergeant Smith testified that he clocked Appellant’s vehicle using radar, showing Appellant was driving at 56 MPH, in a 45 MPH zone. *Id.* After maintaining distance for a “short period” of time, Sergeant

Smith testified that he conducted a traffic stop and informed Appellant why he was being stopped. *Id.* Sergeant Smith also testified at trial that he is certified through the Rhode Island Municipal Police Academy in use of radar, and testified further that the radar unit in his Cruiser was internally calibrated as well as externally calibrated with tuning forks and was therefore operating properly at the time of this traffic stop. Tr. 6: 6-9.

At trial, Appellant cross-examined Sergeant Smith, questioning the Sergeant on whether he had “any evidence” of the speeding violation. *See* Tr. 6: 18. Sergeant Smith’s testimony was presented as evidence during trial. Tr. 6: 20-24. After cross-examination, Appellant testified that at the time of the violation he was unaware of the speed limit. Tr. 7: 19-21. Appellant testified he believed a bus and Sergeant Smith to be driving under the speed limit. *Id.* To avoid being stuck behind the bus, Appellant stated that he believed it was appropriate to accelerate to overtake the vehicle. Appellant argued he believed accelerating was appropriate because “since they were going under the speed limit and I thought it was safe to pass them.” *Id.*

Upon hearing all the presented testimony and evidence, the Trial Magistrate adopted Sergeant Smith’s testimony as his findings of fact. Tr. 8: 4-5. Magistrate Noonan found Sergeant Smith to be the most credible of the witnesses to testify at this trial. The Trial Magistrate found that Sergeant Smith presented credible evidence through his testimony and therefore, sustained the charged violation against the motorist. 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 Magistrate erred in sustaining the violations. Specifically, Appellant contends the State failed to prove through a “preponderance of evidence” that he violated G.L. 1956 § 31-14-2 “Speeding 11+ MPH in Excess of Posted Speed Limit – First Offense.” See Appellant’s Notice of Appeal.

In speeding cases involving the use of radar, the case of *State v. Sprague*, 322 A.2d 36 (1974), is the applicable legal standard. In *Sprague*, 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.

Sergeant Smith fulfilled the first prong of *Sprague* because he testified at trial that “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method.” *Id.* Sergeant Smith testified that the radar unit on his Cruiser was internally calibrated as well as externally calibrated with tuning forks. Tr. 6: 7-9. In the Trial Magistrate’s finding of fact, he adopted this testimony as fact by accepting the Sheriff’s testimony as the most credible. Tr. 8: 4-5.

Second, Sergeant Smith fulfilled the second prong set in *Sprague* because he provided “testimony setting forth [his] training and experience in the use of a radar unit” by testifying that he was trained in the use of radar at the Rhode Island Municipal Police Academy. *Id.*

Further, the Appellant contends that he should be awarded damages to compensate him for two days of lost wages and for travel expenses sustained while traveling from Connecticut, his state of residence. *See* Appellant's Notice of Appeal.

The Court finds no error in the trial decision appealed from the Rhode Island Traffic Tribunal and affirms the finding of guilt. With respect to Appellant's requests for lost wages and travel expenses such requested relief is denied. Rhode Island law does not provide for the award of such damages in an appeal from a traffic violation adjudication before the Rhode Island Traffic Tribunal. No such recovery is permitted or allowed under Rhode Island case law or statute. Any motorist charged with a traffic violation and chooses to avail himself or herself of the judicial process by contesting such charge(s) at trial and then on appeal does so at their own expense and is not entitled to recover either lost wages or travel expenses under Rhode Island case law.

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. Accordingly, Appellant's appeal is denied.

ENTERED:

/S/
Administrative Magistrate DiChiro (Chair)

/S/
Chief Magistrate DiSandro

/S/
Magistrate Landroche

DATE: August 17, 2026