

STATE OF RHODE ISLAND

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND	:	
	:	
v.	:	C.A. No. T23-0016
	:	23403501472
JUSTIN APTT, JR.	:	

DECISION

PER CURIAM: Before this Panel on January 31, 2024—Magistrate Landroche (Chair), Magistrate Abilheira, and Magistrate Welch—is the appeal of Justin Aptt, Jr. (Appellant) from a decision of Magistrate DiChiro (Hearing Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violations of G.L. 1956 § 31-16-5, “Turn Signal Required,” and G.L. 1956 § 31-15-11, “Laned Roadway Violations.” The 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 August 19, 2023, Officer Matthew Sepe (Officer Sepe) of the Cumberland Police Department charged Appellant with violating § 31-16-5, “Turn Signal Required,” § 31-15-11, “Laned Roadway Violations,” and § 31-27-1.3, “Aggressive Driving.” (Summons No. 23403501472.)

On September 14, 2023, at his first appearance, Appellant pled guilty to the charged violations of Turn Signal Required and Laned Roadway Violations. (09/14/2023 Judgment Card). The Hearing Magistrate dismissed the Aggressive Driving charge at that time because it did not meet the statutory requirements. *Id.* On October 10, 2023, Appellant filed a Motion to Reconsider

as he asserts that he “inadvertently” pled guilty to the charges of Turn Signal Required and Laned Roadway Violations. (10/12/2023 Mot. to Recons.). The Motion to Reconsider was heard on October 30, 2023 and was denied. (10/30/2023 Judgment Card). Aggrieved by the decision, Appellant filed this appeal on November 7, 2023. (11/07/2023 Notice of 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

On appeal, Appellant does not assert any errors of law, nor does he claim the Hearing Magistrate abused his discretion. He merely claims that, due to “anxiety [and] other concerns with ongoing issues, [he] was hindered in [his] awareness at the time of the hearing.” *See* Notice of Appeal. As noted above, this Panel’s review is limited to the record before us. If it is determined that the decision of the Hearing Magistrate is based upon substantial and probative evidence found in the record, his or her decision shall be sustained. *See Link*, 633 A.2d at 1348. Here, we find no error of law, nor any abuse of discretion in the Hearing Magistrate’s decision to deny the Motion to Reconsider.

A

Merits

The Appellant is appealing the decision of the Hearing Magistrate who denied the Appellant’s Motion to Reconsider. *See* Notice of Appeal. The Appellant pled guilty on September 14, 2023, to Turn Signal Required and Laned Roadway Violations and sentence was imposed thereafter. *See* Docket. After the imposition of the sentence, Appellant contends that his “anxiety

and other concerns” caused him to make a mistake by pleading guilty, so he filed this appeal on November 7, 2023. *See* Notice of Appeal.

The record indicates that the Motion to Reconsider was filed approximately twenty-three (23) days after the sentence was imposed. *See* Docket. Rule 18(b) provides that, “A motion to withdraw a plea of guilty may be made only before sentence is imposed.” R.I. Traffic Trib. R. P. 18(b). Since the sentence was imposed twenty-three days before the Motion to Reconsider was filed, it was untimely.

Nevertheless, even if the Motion was timely filed, the outcome would be the same. Our Supreme Court has created and used a test to determine whether withdrawal of a plea is “fair and just.” *State v. Carroll*, 110 R.I. 532, 536 (R.I. 1972). The test consists of two questions: (1) “Did the accused fully understand the consequences of his earlier plea, and (2) if he did, is he now offering to adduce evidence at trial which, if believed, would tend to cast doubt on his guilt?” *Id.*

Here, Appellant was aware of the consequences of his guilty plea, as the Hearing Magistrate explained them to him. (10/30/2023 Tr. 4:14-5:25). The Hearing Magistrate (who was also the Trial Magistrate) explained this to Appellant at the motion hearing, stating, “You came to court on September 14, in front of me. I dismissed – you were charged with three things: turn signal, lane roadway and aggressive driving . . . You pled guilty on the turn signal and the lane roadway and now you [want to] vacate that.” *Id.* Appellant claims he is concerned about his driving record and alleges that he was misinformed regarding evidence of a video recording of the incident. *See* Notice of Appeal. However, these are not valid reasons to vacate a guilty plea.

The second prong of the test requires new evidence that would cast doubt on the Appellant’s guilt. *Carroll*, 110 R.I. at 536. Here, Appellant does not offer any new evidence.

