

**STATE OF RHODE ISLAND**

**RHODE ISLAND TRAFFIC TRIBUNAL**

**STATE OF RHODE ISLAND** :  
 :  
 v. : **C.A. No. T25-0017**  
 : **25304500800**  
**DAVID DOROCZ** :

**DECISION**

**PER CURIAM:** Before this Panel on November 19, 2025—Magistrate DiChiro (Chair), Magistrate Kruse Weller, and Magistrate Welch—is the appeal of David Dorocz (Appellant) from a decision of Magistrate Landroche of the Rhode Island Traffic Tribunal, sustaining the charged violation of G.L. 1956 § 31-22-31 “Mobile Phone Usage While Operating a Motor Vehicle.” 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 granted.

**I**

**Facts and Travel**

On July 2, 2025, Sergeant Maddie Pirri (Sergeant Pirri) of the Portsmouth Police Department charged Appellant with G.L. 1956 § 31-22-31 “Mobile Phone Usage While Operating a Motor Vehicle.” *See* Summons No. 25304500800. Appellant contested the charges, and the matter proceeded to trial on August 8, 2025.

Sergeant Pirri testified that on July 2 at 7:56 AM she was posted on West Main Road, at the intersection of Mail Coach Road. *See* Tr. 7: 21-23. She witnessed a vehicle bearing a Rhode Island registration plate with the numbers, 497518, traveling southbound past her location. *Id.* As the car traveled past, she observed the operator holding a cell phone in his hand while driving. *Id.* She activated her emergency lights and conducted a traffic stop, identifying the operator of the

vehicle as the Appellant, David Dorocz and identified Mr. Dorocz in court as the same person she observed using his phone. *Id.* She testified that Appellant admitted to using his cell phone while driving because his GPS had alerted him that an officer was in the area and he was responding to that GPS prompt. *Id.*

During cross-examination Sergeant Pirri testified observing the Appellant's cell phone attached to the dash of his vehicle with the GPS activated. *See* Tr. 10: 10-14. Appellant testified that his vehicle had bluetooth, with calls automatically coming over the speaker system. *Id.*

During trial, he presented his Verizon telephone records for five cell phones which corroborated his testimony that he did not receive any calls prior to this stop. *Id.* The records showed that none of his cell phones received a call at 7:56 A.M. on July 2. *See* Tr. 12: 5-6.

Appellant argued that G.L. 1956 § 31-22-31 is for motorists using a handheld device to make phone calls. *Id.* Since he was responding to a GPS notification and did have bluetooth in his vehicle, Appellant contends that he was wrongfully charged.

On July 1, 2025, G.L. § 31-22-30 "Distracted Driving Prohibited While Operating a Motor Vehicle" was added to Rhode Island General Laws. After trial, on August 8, 2025, the Trial Magistrate found that Appellant was not on his cell phone, nor was he using his phone for a call. *See* Tr. 22: 17-18. However, he found through clear and convincing evidence that Appellant was a distracted driver under the new legislation.

Upon hearing all the evidence, the Trial Magistrate found that each witness was credible in their own way. However, the Trial Magistrate relied on Sergeant Pirri's testimony as a basis for his findings of fact in this case. The Magistrate found Appellant guilty of violating G.L. 1956 § 31-22-31 "Mobile Phone Usage While Operating a Motor Vehicle." 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

The Appellant contends that the Trial Magistrate’s decision was affected by error of law. Appellant argues he was ticketed using the wrong statute and therefore charged using the wrong standard at trial. *See generally* (App.’s Mem. In Supp. Of Appeal.)

Rule 17 of the Rhode Island Traffic Tribunal Laws and Procedures states that the burden of proof shall fall on the prosecution to a standard of clear and convincing evidence. Clear and convincing evidence must “produce in the mind of the factfinder a firm belief or conviction that the allegations in question are true.” *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)).

Being charged under G.L. 1956 § 31-22-31 would require the prosecution to prove though clear and convincing evidence that he was operating a mobile phone while in motion.

G.L. 1956 § 31-22-31 “Mobile Phone Usage While Operating a Motor Vehicle” states:

- (1) Except as otherwise provided in this section, no person shall operate a motor vehicle while using a hand-held personal wireless communication device to engage in a call while such vehicle is in motion.
- (2) An operator of a motor vehicle who holds a hand-held personal wireless communication device to, or in the immediate proximity of, the operator’s ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call. . .

Here, this Panel finds that Appellant was not held to this standard, and the prosecution failed to prove through clear and convincing evidence that Appellant violated G.L. 1956 § 31-22-31. To be found guilty of mobile phone use while driving the prosecution must show the motorist used a “hand-held personal wireless communication device to engage in a call while such vehicle [was] in motion.” *See* G.L. 1956 § 31-22-31.

Sergeant Pirri did not see Appellant engage in a call, and saw his phone attached to his vehicle’s dash. The Trial Magistrate found that the Appellant was not engaged in a call while in motion. Rather, Appellant was found to be *distracted* while driving by responding to a GPS prompt.

The newly admitted distracted driving law, G.L. 1956 § 31-22-30 “Distracted Driving Prohibited While Operating a Motor Vehicle” states that “[n]o person shall use a wireless handset or personal wireless communication device to compose, read, or send text messages, or for any other purpose while driving a motor vehicle on any public street or public highway within the state of Rhode Island.”

In this case, Appellant was in motion while using a personal wireless communication device while driving. The Trial Magistrate used the Sergeant’s testimony of viewing the phone on the dash and observing the Appellant use the phone in his findings of fact. The decision reflects that all evidence shows Appellant was using his mobile device for GPS, not communications.

Under G.L. 1956 § 31-22-30, there is an exception that may apply in this matter. This Panel agrees with the Trial Magistrate that Appellant was on his phone for the purpose of using GPS. G.L. 1956 § 31-22-30 states that no person shall use a personal wireless communication device except for, “a person activating, viewing, or deactivating a global positioning or

navigation device or a global positioning or navigation application while the handset is mounted or otherwise affixed to the vehicle to allow for hands-free operation.” See G.L. 1956 § 31-22-30(b)(4). In light of 31-22-30(b)(4), despite being distracted while driving the Appellant falls within one of the exceptions to the general law. G.L. 1956 § 31-22-30.

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 v. State*, 633 A.2d 1345, 1348 (R.I. 1993); *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991).

In reviewing the entire record, this Panel finds that the Trial Magistrate’s findings were affected by error of law because he found the Appellant guilty of violating a statute designed for motorists using a mobile phone while operating a vehicle, not motorists who were distracted while driving. The usage of a GPS device *was* an exception to the prohibited usage of a telephone on the date the motorist was cited. Therefore, this Panel will grant the appeal and dismiss the violation.

**IV**

**Conclusion**

This Panel has reviewed the entire record in this matter. Upon review, this Panel has found that the Appellant was charged under the wrong statute, ultimately affecting the Trial Magistrate’s decision by error of law. Accordingly, Appellant’s appeal to the violation of G.L. 1956 § 31-22-31 “Mobile Phone Usage While Operating a Motor Vehicle” is granted and the violation is dismissed without court costs.

ENTERED:

\_\_\_\_\_/S/\_\_\_\_\_  
Magistrate DiChiro (Chair)

\_\_\_\_\_/S/\_\_\_\_\_  
Magistrate Kruse Weller

\_\_\_\_\_/S/\_\_\_\_\_  
Magistrate Welch

DATE: March 24, 2026