

**STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc.**

**DISTRICT COURT
SIXTH DIVISION**

Deborah Freeman

v.

**State of Rhode Island
(RITT Appeals Panel)**

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A.A. No. 2012-164

JUDGMENT

This cause came before Capraro, J. on Administrative Appeal, and upon review of the record and a decision having been rendered, it is

ORDERED AND ADJUDGED

The decision of the appeals panel is affirmed.

Dated at Providence, Rhode Island, this 12th day of March, 2014.

Enter:

By Order:

_____/s/_____

_____/s/_____

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
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A.A. No. 2012 – 164
Summons No. 11-412-503358

DECISION

Capraro, J. This matter is before the Court on the appeal of Deborah Freeman filed pursuant to RI Gen. Laws § 31-4.1-9 seeking to appeal the decision of the appeals panel of the Rhode Island Traffic Tribunal which upheld the Trial Magistrate’s decision that Ms. Freeman had violated the provisions of RI Gen. Laws § 31-13-4 – obedience to devices. It was at Ms. Freeman’s trial on December 7, 2011, wherein Magistrate Gariepy found that the City of Woonsocket had met its burden of proof in that Ms. Freeman went through a “red light or a yellow light and had the duty to stop and not proceed

through”. (Transcript p. 47)

FACTS & TRAVEL

On September 13, 2011, Ms. Freeman was issued a citation for failure to obey a traffic device. Specifically, Ms. Freeman was cited for going through a red light at the corner of Diamond Hill Road and Wood Avenue in the City of Woonsocket. This caused a motor vehicle accident involving Ms. Freeman, Mr. Stephen Winters and Mr. Robert Moniz.

On December 7, 2011, those individuals, as well as Officer Timothy Greene of the Woonsocket Police Department, testified as to the events that transpired at approximately 7:20 p.m. on September 13, 2011. Officer Greene essentially arrived at the scene and interviewed the three individuals involved in the accident. He discovered that Ms. Freeman was heading north on Wood Avenue and that Mr. Winters was heading east on Diamond Hill Road. Mr. Moniz was stopped at a red light heading west on Diamond Hill Road. The officer described the accident as one where Ms. Freeman’s car “T-boned” Mr. Winters’ car in the intersection causing Mr. Winters’ car to collide with Mr. Moniz’s car. (Transcript p. 8) For those unfamiliar with this term, it is when one cars front end collides with the side of another car causing both cars to form the letter T at impact. Officer Greene further testified that all three

witnesses were claiming that the light was green at the time of impact. (Transcript p. 8)

Mr. Winters further testified that he was not fully in the intersection when he saw Ms. Freeman, but his car was “well established” in the intersection when he was hit by Ms. Freeman. (Transcript p. 21) Mr. Winters was so stunned by the impact and his conclusion that Ms. Freeman never stopped, he asked his wife if he had the green light. He became positive that he had because after the impact, he looked in his mirror and saw the light was still green. (Transcript p. 19)

Mr. Moniz testified that he was on Diamond Hill Road. He was heading west stopped at a red light. He was talking to his wife and when he looked up the light was green. He took his foot off the brake and saw Mr. Winters’ car hit his car. (Transcript p. 28)

Ms. Freeman testified that as she was heading north on Wood Avenue. She added that as she approached the intersection, the light turned green. As she started to head through the green light, she saw Mr. Winters’ car come at her at a high rate of speed. She claims Mr. Winters’ car was already through or halfway through the intersection when she made contact with it. (Transcript p. 43)

At the end of the case, the Trial Magistrate found, after sifting through the testimony, that:

“So when we look at probability, the only thing that I can deduce from the testimony and from all of them is that the light was green in controlling the traffic on Diamond Hill Road, which means, by default, the light on Wood Avenue had to be red or, even given the benefit of the doubt, yellow. If that was the case, the vehicle, the defendant’s vehicle would have had the obligation and the duty to stop.

Based upon the findings of facts that I have just enumerated, one that Diamond Hill Road’s operators both said it was green, the fact that there was an almost instantaneous impact after the light turned green on Diamond Hill Road, would lead me to conclude only that the vehicle traveling on Wood Avenue was either going through a red light or a yellow light”

(Transcript, p. 51)

STANDARD OF REVIEW

The standard of review is provided by Gen. Laws 1956 § 31-41.1.-9(d):

(d) Standard of review. The judge of the district court shall not substitute his or her judgment for that of the appeals panel as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the appeals panel, or 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 appeals panel's findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the appeals panel;
- (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.

As with its review of an agency decision, Guarino v. Department of Social Welfare, 122 R.I. 583, 588, 410 A.2d 425, 428 (1980)(citing G.L. 1956 § 42-35-15(g)(5)), this Court will not substitute its judgment for that of the [trial judge] on questions of fact: see also Cahoone v. Board of Review of the Department of Employment Security, 104 R.I. 503, 506, 246 A.2d 213, 215 (1968). Also, the findings of the [trial judge] will be upheld even though a reasonable mind might have reached a contrary result. Id.; see also D'Ambra v. Board of Review, Department of Employment Security, 517 A.2d 1039, 1041 (R.I. 1986).

The standard of review of the appeals panel is controlled by G. L. 1956 § 31-41.1.-8(f), which provides:

(f) Standard of review. 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 decisions of the judges or magistrates, 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.

The standard of review that the District Court must apply to the findings, conclusions of law, and decision of the appeals panel of the Traffic Tribunal are the same standards that the appeals panel must apply to the Trial Magistrate's findings, conclusions of law, and decision.

The appeals panel made determinations based on the record and arguments presented. On reviewing the entire record, this Court must determine if the appeals panel's decision was supported by reliable, probative, and substantial evidence.

ANALYSIS

On appeal, Ms. Freeman contends that the appeals panel erred when it upheld Trial Magistrate Gariepy's guilty finding for failure to obey a traffic device. The crux of her argument is that, based upon the facts and testimony adduced at trial, the fact finder should have found that Mr. Winters had gone through the red light and not her. She therefore complains that the trial magistrate's factual finding was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record. It therefore becomes

this Court's sole duty to determine if that guilty finding is supported by legally competent evidence, as the appeals panel did.

As is the case in any bench trial, the fact finder is the sole judge of credibility of any witness. They determine the weight to be given to testimony. They are in the best position to appraise a person's demeanor on the witness stand.

Ms. Freeman and Mr. Winters both testified that the other person went through the red light. In this particular case, the trial magistrate determined to believe the testimony of Mr. Winters. He based part of that on the testimony of Mr. Moniz, an impartial witness. There is nothing found in the entire transcript that would cause this Court to determine that the trial magistrate's factual decision was clearly erroneous.

Indeed, one only needs to look at the testimony of Mr. Moniz to be confident of that decision.

Mr. Moniz testified:

"I was at the intersection. The light was red. I was stopped. And I was talking to - - my wife was in the car with me. And I looked up; the light was green, when I took my foot off the brake and I see Mr. Winters' car come, you know hit me, I said, Oh, my God. And that was it."

(Transcript p. 28)

One can conclude that Mr. Moniz did not actually see the light he was in front of turn from red to green. All he knows is that when he “looked up” it was green. Since some time had passed, it is easy to conclude that Mr. Moniz’s light was green for some time. Time enough for Mr. Winters’ car to go through the light legally before being hit by Ms. Freeman. Mr. Moniz’s testimony is therefore consistent with Mr. Winters’.

In Ms. Freeman’s brief to this Court, she asks questions that were not asked nor answered at trial. She also made a number of conclusions not supported by any concrete evidence or testimony. This Court finds that this sort of conjecture would not rise to a clearly erroneous standard. It is also not this Court’s duty to substitute its judgment for that of the appeals panel as to the weight of the evidence. Perhaps if some of those questions and areas were explored at trial through testimony, some of these conclusions would have some validity. Here, the state of the record clearly shows the finding was supported by competent evidence.

CONCLUSION

Upon review of the record this Court finds that the decision of the appeals panel was supported by reliable, probative, and substantial evidence. The decision of the appeals panel is hereby affirmed.