STATE OF RHODE ISLAND **DISTRICT COURT**
PROVIDENCE, Sc. **SIXTH DIVISION**

Phineas Clark	:	
	:	
v.	:	**A.A. No. 2023 - 071**
	:	
Town of Barrington	:	
(RITT Appeals Panel)	:	

O R D E R

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and Recommendations of the Magistrate.

After a de novo review of the record and the memoranda of counsel, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto.

It is, therefore, ORDERED, ADJUDGED AND DECREED,

that the Findings and Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the decision of the Appeals Panel is AFFIRMED.

Entered as an Order of this Court on this 24th day of September, 2024.

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

By Order:

/s/

STATE OF RHODE ISLAND **DISTRICT COURT**
PROVIDENCE, Sc. **SIXTH DIVISION**

Phineas Clark	:	
	:	
v.	:	**A.A. No. 2023-071**
	:	**(T23-0008)**
Town of Barrington	:	**(23-101-500057)**
(RITT Appeals Panel)	:	

F I N D I N G S & R E C O M M E N D A T I O N S

Ippolito, M. On January 31, 2023, Officer Regan Jeffrey of the Barrington Police Department cited Mr. Phineas Clark for speeding, a civil violation codified in G.L. 1956 31-14-2. The case proceeded to trial before a Magistrate of the Traffic Tribunal, who sustained the charge. Subsequently, the Appeals Panel of the Traffic Tribunal affirmed the conviction. And now, Mr. Clark seeks relief in this Court, which is vested with jurisdiction to hear and decide appeals from decisions of the Appeals Panel by G.L. 1956 § 31-41.1-9.

This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. Applying the standard of review that is found in G.L. 1956 § 31-41.1-9(d), I have concluded that the

evidence and testimony presented at his trial constituted competent evidence upon which the Trial Magistrate had a right to rely. Neither were Appellant's procedural rights abused. I must therefore recommend that the decision rendered by the appeals panel in Mr. Clark's case be AFFIRMED.

I
Facts and Travel of the Case

Officer Jeffrey's version of the incident which led to the speeding charge being lodged against Mr. Clark, is fairly stated in the decision of the Appeals Panel:

> … During the trial, Officer Jeffrey testified that he was on a stationary post on January 31, 2023, at approximately 12:12 a.m., monitoring traffic traveling north on Wampanoag Trail at the East Providence line. At that time, Officer Jeffrey saw a 2020 Kia traveling at a high rate of speed and received a "radar speed of 63 in a 45." Officer Jeffrey conducted a motor vehicle stop. Officer Jeffrey wrote the citation for 55 miles per hour in a posted 45 miles-per-hour zone. (Summons No. 23101500057.)

Dec. of the Appeals Panel, at 1-2 (citing *Trial Tr.* at 3).[1] Mr. Clark was arraigned on the above-captioned citation on April 3, 2023 and the matter was reassigned for trial to April 24, 2023.

At the trial, Officer Jeffrey testified in a manner consistent with the foregoing narrative. He also offered testimony as to his training in the use of speed-detection radar at the Rhode Island Municipal Police Training Academy

[1] The Panel's five-page decision may be found within the electronic record (hereinafter "*ER*") attached to this case under the docket entry "10/12/2023 Administrative Appeal Filed." The Decision begins on page 19. The thirteen-page transcript of the trial that was provided by Appellant Clark may be found beginning on page 27. The citation, Summons No. 23101500057, may be found beginning on page 53.

and stated that the radar was internally and externally checked before and after the violation and found to be in good working order. *Dec. of App. Panel,* at 3.

Mr. Clark also testified at trial. He stated that he thought that the speed limit on the roadway was 50 mph, but the Officer told him it was 45 mph. He conceded that he was going faster than that (that is, 45 mph). *Trial. Tr.* at 5. Appellant also told the Officer that he was new to the area, and this was a route he did not usually take. *Id*. The Officer responded that, if he went to court, he could probably have the case dismissed. *Id*.[2] He further stated that he and his wife had come back to Rhode Island to be closer to their parents. *Id*.

At the conclusion of the testimony, the Trial Magistrate announced his verdict. The Trial Magistrate found the motorist guilty on the charge of speeding. *Id*. at 11-12. The Trial Magistrate imposed a fine of $95.00 on the speeding charge and waived the court costs (of $35.00). *Id*. at 12.[3] With two assessments added, that made a total penalty of $99.25. *Id*.

Appellant filed a timely appeal; and, in the "Notice of Appeal – Appeals Panel" that he filed, Mr. Clark stated:

> During my trial, the judge repeatedly interrupted me, antagonized me about time, and gave contradictory statements about when I could make an argument. His behavior was not conducive to a fair or equitable trial. In addition, he took plenty of time with other cases and also spent several minutes sorting out paperwork, all of which he

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[2] One may assume this was a reference to the Good Driving Record statute, G.L. 1956 § 31-41.1-7.

[3] The penalty for speeding (for speeds not in excess of ten miles over the applicable speed limit) is set at $95.00 in G.L. 1956 § 31-41.1-4(a)(A).

apparently and implicitly prioritized over my trial.

Notice of Appeal – Appeals Panel (*ER* at 43). On August 30, 2023, oral arguments in the case were heard by an Appeals Panel composed of Magistrate Abilheira (Chair), Magistrate Landroche, and Magistrate Welch. *Dec. of App. Panel,* at 1. In its decision, which was published on September 21, 2023, the Panel focused on the grounds for appeal that Mr. Clark had enumerated in his Notice of Appeal.

First, in response to the assertion that the Trial Magistrate interrupted and antagonized him during his trial, the Panel declared that the Trial Magistrate "gave Appellant the opportunity to be heard, and a fair and equitable trial." *Id*. at 4. The Panel specifically noted that Mr. Clark was given the opportunity to cross-examine the officer and to be heard in his own defense. *Id*.

Second, regarding the allegation of speeding, the Panel identified G.L. 1956 § 31-14-2(a)(3) as the source of the prima facie speed limit of 45 miles per hour, particularly at night. *Id*. at 4-5. Also on this point, Appellant admitted he was traveling faster than 45 miles per hour. *Id*. at 5.

Finally, Appellant filed an appeal to this Court on October 12, 2023.[4]

[4] Appellant anticipated that the Town would assert that his appeal was filed *after* the expiration of the ten-day appeal period found in G.L. 1956 § 31-41.1-9(b). *See Appellant's Statement*, *ER* at 15. And, it did so. *Town of Barrington's Brief,* at 3-4. Apparently, Mr. Clark thought that the ten-day appeal period set forth in the statute referred to *business* days, not *calendar* days. Generally, this type of subjective excuse has not been deemed to constitute good cause for extension of an appeal period. However, I shall not recommend dismissal of the instant appeal on that ground but shall instead address the merits of Mr.

II
Positions of the Parties
A
Appellant's Position

When invited to file a brief in this case, Appellant Clark did not do so. However, he had earlier, in conjunction with the filing of his appeal to this Court, filed an expanded statement of his grounds for appeal. *See Appellant's Statement, ER* at 6-15. This document begins on page six of the electronic record *ER* attached to this case, which, as stated *supra*, may be found under the docket entry "10/12/2023 Administrative Appeal Filed." It recounts the entire story of this citation from its issuance, from Mr. Clark's perspective. *See Appellant's Statement*, *ER* at 6-10. He then enumerated eleven grounds upon which, in his estimation, the case should be dismissed:

1. The Officer led him to believe that he could have the case dismissed under the good-driving statute. *See* ground of appeal No. 3, *infra*.
2. It was "rather inhospitable" that he received no "benefit of the doubt" for being new to the area and not knowing the speed limit on the Wampanoag Trail.
3. The previous citation from another state, which the Magistrate cited in declining to dismiss under the good driving statute, was subsequently

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Clark's appeal.

dismissed; in addition, he was not allowed to take a defensive driving course in return for a dismissal.

4. He was summoned for trial on an incorrect day, which caused him to make an unnecessary trip to Cranston from his home in Barrington.
5. The Trial Magistrate incorrectly stated the time the citation was issued.
6. That he was "repeatedly interrupted and hurried" during his trial and not given time to gather his thoughts or to articulate them.
7. That the Magistrate told him that "[his] defense was not, in fact, a defense" although he had not heard Mr. Clark's remarks in their entirety.
8. That the Trial Magistrate told him, near the beginning of the trial, that he would not be able to dismiss the charge.
9. That he was required to state the grounds of his appeal before he was able to listen to the trial recording.
10. That he was not told he could be present at the appeal hearing until after it had occurred, depriving him of the chance to make his case.
11. The fact that his words were taken out of context during the appeal process, making it seem that he made an admission that he never made.

See Appellant's Statement, *ER* at 11-14.

B

Town of Barrington's Position

The Town did file a Memorandum in this matter. It made two arguments. *First*, and as stated *supra* at 4, n. 4, the Town argues that Mr. Clark's appeal was time-barred because it was filed after the expiration of the ten-day appeal period found in G.L. 1956 § 31-41.1-9(b). *Town of Barrington's Brief,* at 3-4.[5] *Second*, the Town argues that Mr. Clark's rights were not prejudiced by the Panel; it then breaks this second arguments into two parts: (a) *substantively*, the Town asserts that there was ample evidence that he violated the speeding statute, including his admission that he was traveling at a speed greater than 45 miles per hour, and (b) *procedurally*, the Town endeavors to rebut each of the procedural allegations that Mr. Clark made in his appeal memorandum. *Id.* at 5-9.

III

Standard of Review

The standard of review which must be employed in this case is that enumerated in G.L. 1956 § 31-41.1.-9(d), which states as follows:

> (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:

[5] This document can be found under the docket entry "12/21/2023 Appellee Brief Filed."

> (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.

This provision is a mirror-image of the standard of review found in G.L. 1956 § 42-35-15(g) — a provision of the Rhode Island Administrative Procedures Act (APA). Accordingly, we can rely on cases interpreting the APA standard as guiding lights in this process. Under the APA standard, the District Court " … may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are 'clearly erroneous.'" *Guarino v. Department of Social Welfare,* 122 R.I. 583, 584, 410 A.2d 425 (1980) (citing G.L. 1956 § 42-35-15(g) (5)). *See also Link v. State,* 633 A.2d 1345, 1348 (R.I. 1993).

And our Supreme Court has reminded us, when handling appeals from a predecessor tribunal, that reviewing courts lack "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, ante,* 633 A.2d at 1348 (citing *Liberty Mutual Ins. Co. v. Janes,* 586 A.2d 536, 537 (R.I. 1991)). And so, this Court's review "… is confined to a reading of the record to determine whether the judge's decision is supported by legally competent evidence or is affected by an error of law." *Id.* at 1348 (citing *Environmental Sciences Corp. v. Durfee,* 621 A.2d 200, 208 (R.I. 1993)).

IV

Applicable Law — The Speeding Statute

In the instant matter the Appellant was charged with violating section 31-14-2 of the General Laws, which states:

> **31-14-2 Prima facie limits.** — (a) Where no special hazard exists that requires lower speed for compliance with § 31-14-1, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this title shall be lawful, but any speed in excess of the limits specified in this section or established as authorized in this title shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:
>
> (1) Twenty-five miles per hour (25 mph) in any business or residence district;
>
> (2) Fifty miles per hour (50 mph) in other locations during the daytime;
>
> **(3) Forty-five miles per hour (45 mph) in such other locations during the nighttime;**
>
> (4) Twenty miles per hour (20 mph) in the area within three hundred feet (300') of any schoolhouse grounds' entrances and exits during the daytime during the days when schools shall be open.
>
> (5) The provisions of subdivision (4) of this subsection shall not apply except when appropriate warning signs are posted in proximity with the boundaries of the area within three hundred feet (300') of the schoolhouse grounds, entrances, and exits.
>
> (b) Daytime means from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.
>
> (c) The prima facie speed limits set forth in this section may be altered as authorized in §§ 31-14-4 — 31-14-8.
>
> (Emphasis added).

V

Analysis

The Court shall first address Appellant's substantive challenges to his adjudication on the speeding charge. Here the question is whether the Town

proved the instant citation to the pertinent standard of proof — clear and convincing evidence. *See* G.L. 1956 § 41-41.1-6(a). Obviously, the most important piece of evidence was the testimony of Officer Jeffrey. The Officer testified that, by use of a radar speed-detection device, Mr. Clark's vehicle was clocked travelling 63 miles per hour on the Wampanoag Trail at approximately 12:12 A.M. during the early morning of January 31, 2023. *Dec. of App. Panel,* at 1-2 (citing *Trial Tr.* at 3). At that time and place the lawful speed limit was 45 mph. *Trial Tr.* at 3. The Officer, who stated that he had been trained in the use of radar at the Rhode Island Municipal Police Training Academy, further attested that the device had been checked internally and externally before and after the violation and was found to be in good working order. *Dec. of App. Panel,* at 2 (citing *Trial Tr.* at 3).[6]

During the car stop that followed, Mr. Clark, who thought the speed limit was 50 miles per hour, admitted that he was travelling faster than 45 miles per hour. *Id.* (citing *Trial Tr.* at 5). Of course, that admission, if believed, is sufficient *per se* to prove the instant civil violation.[7]

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[6] It is perhaps worth noting that all this testimony was received without objection.

[7] Recall that Mr. Clark was charged with driving between one and ten miles per hour over the speed limit — although the proof showed that his actual speed was much higher. Therefore, proof that he was speeding a mere one or two miles over the speed limit would have been sufficient to sustain the charge. *See* Summons No. 23101500057, which may be found in the electronic record under the docket entry "10/12/2023 Administrative Appeal Filed," at 53.

Next, examining the procedural complaints made by Mr. Clark, one finds they contain less substance than at first it may appear.[8] Many of the issues raised by Appellant were not probative of his guilt or innocence but were mere requests for sympathy and leniency.[9] For example, Mr. Clark's misapprehension as to the pertinent speed limit, even if fully credited, did not constitute a defense to the civil violation before the Tribunal.[10] Why? Because speeding violations, like most traffic violations, are universally acknowledged to be strict-liability offenses.[11] And strict-liability offenses which are those "… for which the action

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[8] Here I am specifically *not* referring to the fact that Mr. Clark was summoned on the wrong date and was forced to make an unnecessary trip from his home in Barrington to Cranston. This error, though unintentional, is entirely lamentable — though it does not provide a basis upon which to grant Mr. Clark the dismissal he seeks.

[9] This is perhaps an appropriate juncture to observe that consideration was granted to Mr. Clark, though he may not have been aware of it. Officer Jeffrey did *not* cite him for the actual speed he was travelling (63 mph), but a *lesser* speed (55 mph). Had the Officer charged him with the speed detected by the radar device, Appellant would have been subjected to enhanced penalties under G.L. 1956 § 31-41.1-4(b)(2). Moreover, if his actual speed had been charged, Mr. Clark would not have been eligible to use the good driving record on that ground as well. *See* G.L. 1956 § 31-41.1-7(d)(5).

[10] This declaration rests on the ancient principle that a mistake of law is no defense. *See State v. Foster,* 22 R.I. 163, 168-70, 46 A. 833, 834-35 (1900). *See also* 21 AM.JUR.2D *Criminal Law* § 132 (May, 2024 Update) *and* 4 W. Blackstone, *Commentaries on the Laws of England* *27 (1st ed.1769).

[11] *Specifically*, as to speeding charges, *State v. Toben,* 842 N.W.2d 647, 651 (2014) (dicta) (citing *State v. Caddy,* 540 P.2d 1089, 1090-91 (Colo. 1975)); *Williams v. Commonwealth,* 365 S.E. 2d 340, 343 (1988); *State v. Zullo,* 236 A.2d 718, 720 (Conn.Cir.1967) (noting that speeding was *malum prohibitum* offense not requiring proof of intent); *Commonwealth v. Greenberg,* 855 A.2d 1025, 1027 (Pa.Super. 2005) (calling speeding a *per se* offense not requiring proof of *mens rea*).

And *generally* as to driving offenses, Wayne R. LaFave, SUBSTANTIVE CRIMINAL LAW, § 5.5(a) (3rd ed. Oct. 2023 Update) (citing, *inter alia, State v. Carman,* 292 Neb. 207, 214-17, 872 N.W.2d 559, 564-66 (2015) (Court's found that traffic offenses of (1) following too closely and (2) driving too fast for conditions were public welfare offenses not carrying heavy penalties which do not require proof of *mens rea*; thus, commission of these offenses were insufficient to undergird defendant's conviction for manslaughter); *see also Morissette v.*

alone is enough to warrant a conviction, with no need to prove a mental state."[12] Consequently, Mr. Clark's belief as to the applicable speed limit was entirely irrelevant to the trial of his case and, at the end of the day, his pleas for sympathy could have had no effect on the outcome of his case.

Neither were his extensive pleas for consideration material (in any legal sense) to issues of mitigation, particularly issues of sentencing, because the statute under which he was charged, § 31-14-2, gives the magistrates of the Tribunal Tribunal no discretion in sentencing.

On the basis of the foregoing, this Court finds that the Town presented competent evidence upon which the Trial Magistrate could find (and the Appeals Panel could affirm) that Appellant Clark was exceeding the speed limit (in violation of § 31-14-1(a)(3)) on the date and time in question, to the standard of clear and convincing evidence. And, any abridgement of his arguments, if such occurred, were prompted by the fact that the arguments being made concerned matters which were legally irrelevant; consequently, any such curtailment could not result in prejudice being visited upon a substantial right possessed by Mr. Clark.

United States, 342 U.S. 246, 254, 262 (1952) (identifying traffic violations as public welfare offenses not requiring proof of *mens rea*) (citing Francis Bowes Sayre, *Public Welfare Offenses,* 33 COL. L. REV. 55, 73, 83, 87 (1933)).

[12] *Black's Law Dictionary* (12th ed. 2024). The legal term of art for the mental state for a crime or lesser offense is its *mens rea,* which circularly, is defined to be "the state of mind that the prosecution, to secure a conviction, must prove that a defendant had when committing a crime." *Black's Law Dictionary* (12th ed. 2024).

VI
Conclusion

Upon careful review of the evidence, I recommend that this Court find that the decision of the appeals panel was made upon lawful procedure and was not affected by error of law. G.L. 1956 § 31-41.1-9. Furthermore, said decision is not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *Id.*

Accordingly, I recommend that the decision of the appeals panel be AFFIRMED.

/s/
Joseph P. Ippolito
MAGISTRATE
SEPTEMBER 24, 2024