

October 11, 2006

STATE OF RHODE ISLAND

DISTRICT COURT

PROVIDENCE, Sc.

SIXTH DIVISION

STATE OF RHODE ISLAND

Vs.

A.A. No. 05-42

CHARLES PICERNO

DECISION

GONNELLA, J. In this appeal from the Rhode Island Traffic Tribunal, Appellant asks the court to construe the language of R.I.G.L. § 31-47-9 in a manner so that its provisions do not apply to unregistered vehicles that are being driven without financial security. In pertinent part, § 31-47-9, provides:

(a) Any owner of a motor vehicle registered in this state who shall knowingly operate the motor vehicle ... without having in full force and effect the financial security required by the provisions of this chapter, and any other person who shall operate in this state any motor vehicle registered in this state with the knowledge that the owner of it does not have in full force and effect financial security .. may be subject to mandatory suspension of license and registration as follows:

(1) For a first offense, a suspension of up to three (3) months and may be fined one hundred dollars (\$100) up to five hundred dollars (\$500); (emphasis added)

For the reasons delineated, the court agrees with Appellant.

FACTS AND TRAVEL

On April 19, 2004 at approximately 9:30 a. m., Appellant was involved in a motor vehicle accident. Apparently debris from Appellant's truck blew off and hit the vehicle behind him causing minor damage. Appellant had earlier that morning purchased the truck and was delivering it to his nephew. Appellant had taken license plates from a truck that he owned which was properly registered and insured and affixed those plates to the newly purchased truck in order to drive it to his nephew's home. When a State Trooper arrived on the scene, he was not convinced that the truck being driven by Appellant had in effect the financial security required by the law, so he issued Appellant a ticket for operating a motor vehicle without financial security under § 31-47-9.

At the trial, Appellant produced evidence that he had reached a settlement with the owner of the other vehicle for the damages caused by the flying debris. That fact, however, did not persuade the trial judge that Appellant had had the requisite financial security on the truck at the time of the accident. Consequently, the trial judge sustained the violation.

On appeal to the Appeals Panel of the Traffic Tribunal, Appellant argued that § 31-47-9 did not apply to unregistered vehicles, and since the

truck was unregistered, he could not be charged with violating § 31-47-9. The Appeals Panel was equally unimpressed with Appellant's argument and reasoned that it was clear from the language of § 31-47-9 that the legislature intended the financial security requirement to extend to both registered and unregistered vehicles otherwise the statute would be read to reach an absurd result. The Appeals Panel read the words in the statute, "registered in this state," to create a distinction only between vehicles registered in this state with vehicles registered in another state, and not a distinction between registered and unregistered vehicles. The Appeals Panel affirmed the violation.

On Appeal to this court Appellant continues to argue that the plain meaning of the language in 31-47-9 does not reach unregistered vehicles.

STANDARD OF REVIEW

The District Court has jurisdiction to hear appeals from the Appeals Panel of the Traffic Tribunal pursuant to *R.I.G.L. § 31-41.1-9*. The District Court's jurisdiction is limited, however, by *R.I.G.L. § 31-41.1-9 (d)* which provides:

(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

[sic] 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.

The District Court, therefore, lacks the authority to assess witnesses' credibility or to substitute its judgment for that of the Appeals Panel concerning the weight of the evidence on questions of fact. *Link v. State*, 633 A.2d 1345 (R.I. 1993). The District Court is limited to a determination of whether the Appeals Panel's decision is supported by competent evidence. *Marrcm v. State*, 672 A.2d 875 (R.I. 1996). Thus, the District Court may reverse a decision of the Appeals Panel only where the decision "is clearly erroneous in light of the reliable, probative, and substantial evidence", or where it is so arbitrary and capricious that it is characterized as an abuse of discretion. *Costa v. The Registry of Motor Vehicles*, 543 A.2d 1307, 1309 (R.I. 1988). hi short, the District Court is not entitled to substitute its judgment for that of the Appeals Panel on questions of fact "even in a case

in which the court 'might be inclined to view the evidence differently and draw inferences different from the agency.'" *Johnston Ambulance Surgical Ass'n, Inc. v. Nolan*, 755 A.2d 799, 805 (R.I. 2000) (citations omitted). Finally, this court reviews statutory interpretations *de novo*. See, *State v. Grayhurst*, 852 A.2d 491, 516 (R.I. 2004).

DOES § 31-47-9 APPLY TO UNREGISTERED VEHICLES?

Dating all the way back to our judicial roots in common law, it has been the court's position when interpreting a statute that it must bear "*in mind that the office of the judges is not to legislate, but to declare the express intention of the Legislature, even if that intention appears to the Court injudicious ... giving the words their ordinary signification ...*" Lord Blackburn, *River Wear Comm'rs v. Adamson*, 2 App. Cas. 743, 764 (House of Lords, 1877). This basic tenet of statutory construction to give the words in the statute their plain and ordinary meaning has remained the central goal in every case in which a court is called upon to interpret a statute. See, e.g. *State v. Grayhurst, supra*; *Gem Plumbing & Heating Co. v. Rossi*, 867 A.2d 796 (R.I. 2005); *Harvard Pilgrim Health Care of New England, Inc v. Gelati*, 865 A.2d 1028 (R.I. 2004); *Park v. Rizzo Ford*, App No. 2004-264 (R.I. Supreme Court Slip Opinion, Jan 24, 2006).

The only exception to this 'cannon of statutory construction is when the plain and ordinary meaning of the words of a statute produces an absurd result. Thus, Lord Blackburn wrote, "*unless when so applied (the plain and ordinary meaning of the words) they produce and inconsistency, or an absurdity or inconvenience so great as to convince the Court that the intention could not have been to use them in their ordinary signification ...*" *River Ware Commissioners, supra*, at. 764.

The plain and ordinary meaning of the words in § 31-47-9 is to apply its terms to vehicles "registered in this state," because that is what the words say. If such an application does not produce an absurd result such that it could not have been the intention of the legislature then this court's inquiry must come to an end and the plain and ordinary meaning of the words used must be applied.

The Appeals Panel held that by applying the plain meaning of the words used in § 31-47-9 only to vehicles "registered in the state" the result would work an inequity between registered and unregistered vehicles in Rhode Island, since owners of registered but uninsured vehicles would suffer greater consequences than owners of unregistered and uninsured vehicles. That fact, the Appeals Panel reasoned, would give vehicle owners no incentive to register their vehicles. And, giving one an incentive not to

register a vehicle would cause the statute (§ 31-47-9) to reach an absurd result.

This court finds that logic flawed. Unregistered vehicles have not, by definition, been through the registration process. The registration process requires a fee together with an application signed under oath which delineates information about the owner and about the vehicle being registered. All vehicles being registered must have a safety inspection sticker, and all owners must provide proof of payment of sales tax. Finally, and most importantly to this case, all vehicles being registered must show proof of financial security.

Additionally, R.I.G.L. § 31-3-1 makes it a civil violation to operate an unregistered vehicle with penalties of up to a \$500.00 fine. Thus, unregistered vehicle owners, in contrast to registered vehicle owners, are being punished for, *inter alia*,¹ not providing proof of financial security through the penalty provided in § 31-3-1. This separate consequence (a fine of up to \$500.00) for a person who operates an unregistered vehicle in Rhode Island means that there are independent reasons and incentives for vehicle owners to register their vehicles and separate punishments for those who choose to operate unregistered and uninsured vehicles in Rhode Island.

¹ R.I.G.L. § 31-3-1 penalizes a person for not registering their vehicle and going through the registration process. That process is designed to insure that the vehicle has been safety inspected, covered with the proper financial responsibility, and is not a stolen vehicle.

Therefore, it is not absurd to conclude that the Legislature may well have intended R.I.G.L. § 31-47-9 to apply to "registered vehicles" only, since unregistered vehicles are already subject to the penalty in § 31-3-1, and that penalty takes into consideration that the owner is driving the vehicle without proof of financial security. When one considers that § 31-3-1 addresses the evils of unregistered vehicles without insurance then there exists no inequity in §31-47-9 between registered and unregistered vehicles.

But even if the language of § 31-47-9 results in some inequities between registered and unregistered vehicles; this alone does not render an absurd result. Inequitable results or "injudicious" intentions do not give a court the power to re-write a statute that was lawfully enacted through the legislative process. If there exists inequities in the application of § 31-47-9 between registered and unregistered vehicles then let the legislative process correct those inequities, not the courts. Absent a finding of absurd results, this court must give the words in the statute their plain and ordinary meaning. This court finds that § 31-47-9 does not provide an incentive for owners not to register their vehicles nor does it create an inequity between registered and unregistered vehicles. Thus, applying the plain meaning of its terms to "registered vehicles" only does not cause an absurd result.

For all of the foregoing reasons, this court finds that the language in § 31-47-9 is clear, plain and unambiguous. Further, this court finds that the application of the clear, plain and unambiguous language of § 31-47-9 does not lead to absurd results and does not defeat the legislative purpose of the statute. Therefore, this court holds that the provisions of § 31-47-9 applies to only registered vehicles in this state, and not to unregistered vehicles.

The decision of the Appeals Panel to sustain the violation against Appellant is reversed and the matter is remanded to the Traffic Tribunal with directions to enter an order of acquittal.