

DIVISION OF ST. THOMAS AND ST. JOHN

Plaintiff/Respondent on Review.

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) **CASE NO. ST-14-MV-504**
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On December 1, 2013, Algernon Baltimore was driving a Chevrolet Colorado truck in the vicinity of Gourmet Gallery near Crown Bay Marina when his truck collided with another vehicle driven by Petitioner. Virgin Islands Police Officer Doralyn Charles responded to the scene, took photographs, interviewed Petitioner and Baltimore, and issued a traffic ticket to Petitioner. On March 12, 2014, Magistrate Henry V. Carr, III held a trial concerning the traffic ticket, and was presented with two accounts of the accident: Baltimore testified that Petitioner reversed his vehicle into Baltimore's truck, and Petitioner testified that Baltimore reversed his truck into Petitioner's vehicle. Neither party presented a witness who observed the accident as it took place. Officer Charles testified that, based on the position of the vehicles when she arrived at the scene, she concluded that Petitioner reversed his vehicle into Baltimore's truck. The

Magistrate determined that he believed Baltimore's account of the accident, found Petitioner guilty of negligent driving, and imposed a fine of \$30.00 plus court costs. Petitioner filed a notice of appeal with this Court on March 14, 2014.

STANDARD

The Superior Court "has jurisdiction to review judgments and orders issued by a Magistrate, as a result of the Magistrates' exercising their original jurisdiction as provided for at 4 V.I.C. § 123." The Superior Court reviews a Magistrate's factual determinations for "clear error" and legal findings are "afforded plenary review."

ANALYSIS

Petitioner asserts that his conviction of negligent driving should be reversed because the Magistrate committed procedural errors and his findings were against the weight of the evidence.

First, Petitioner contends that the Magistrate's ruling was in error because Petitioner's testimony supported a finding that Petitioner was not guilty of negligent driving. Essentially, Petitioner invites this Court to reweigh witness credibility, re-evaluate the evidence, and find in favor of an acquittal rather than a conviction. However, this Court sits as an appellate court when it reviews decisions from the Magistrate and is not charged with re-assessing the credibility of witnesses. The Magistrate, the finder of fact in the trial, was in the best position to assess the credibility of witnesses and resolve inconsistent testimony. The Magistrate's factual findings are reversible only if Petitioner demonstrates that the Magistrate committed clear error. And, this Court cannot find, as a matter of law, that the Magistrate committed clear error in finding Baltimore credible in his account of the accident and in rejecting Petitioner's account of the accident.

Petitioner also asserts that his conviction should be reversed because of several procedural errors committed at trial. Petitioner contends that when the hearing began, the charges were not read into the record and Petitioner was not asked how he pled to the charges. Petitioner also argues that the Magistrate should have continued the case until Officer Charles produced the written statement that was signed by Baltimore and Petitioner, which was, as Petitioner puts it, a “key piece of evidence” that was missing. Furthermore, Petitioner argues that there was an ambiguity as to what traffic ordinance he violated because the traffic ticket did not reference a specific section of the Virgin Islands Code, and the Magistrate was confused as to what the actual charges were. Finally, Petitioner contends that the Magistrate’s tone throughout the hearing gave Petitioner the impression that Petitioner was required to prove his innocence, when in fact, the burden should have been on Respondent to present facts that Petitioner was guilty beyond a reasonable doubt.

The hearing transcript indicates that the Magistrate did not begin the hearing by asking Petitioner to submit a plea or by reading the charges in the record. Instead, the Magistrate instructed Respondent to proceed with its case. Assuming, *arguendo*, that the Magistrate committed error by not taking Petitioner’s plea at the beginning of the hearing, that error was harmless, as it did not affect the ultimate result in the case. The Magistrate proceeded as if Petitioner had entered a plea of not guilty and heard the case. In addition, Petitioner asserted that he “[felt] that [he was] not guilty of the charge [of negligent driving]” when he was given the opportunity to present his case. As a result, Petitioner has failed to demonstrate the Magistrate committed clear error for failing to take Petitioner’s plea to the charges or that Petitioner suffered any prejudice as a result of that omission.

The Magistrate also did not commit clear error when he failed to continue the case so that the written statement could be reviewed at the hearing. Based on the record, the written statement documented Petitioner's account of the accident. Initially, it is generally considered reversible error to admit police reports into evidence in criminal trials. Moreover, given that the Magistrate heard Petitioner's oral testimony concerning his account of the accident, it was unnecessary for the Magistrate to review Petitioner's written statement concerning the accident. Even had the account contained in the report been available, that evidence would have been merely cumulative.

In addition, the Court rejects Petitioner's argument that the Magistrate was unclear as to what charges Petitioner faced. After Respondent finished its presentation of its case against Petitioner, the Magistrate asked Petitioner if he had anything to say concerning "this charge of negligent driving," a violation of 20 V.I.C. § 503. And, in his findings of fact and conclusions of law made orally on the record, the Magistrate found Petitioner "guilty of negligent driving as charged." However, when imposing a fine against Petitioner, the Magistrate amended his findings to state that the facts, as presented by Respondent, indicated that Petitioner was guilty of violating 20 V.I.C. § 507, improper reversing. The Magistrate noted that improper reversing was a specific type of negligent driving most applicable to this case.

The fact that the Magistrate found Petitioner guilty of 20 V.I.C. § 507 instead of 20 V.I.C. § 503 is not evidence of clear error. Throughout Respondent's case, Petitioner was aware that he was being charged with negligent driving because he reversed his vehicle improperly. As a result, there is no basis for Petitioner to claim that he was either surprised or prejudiced

because the Magistrate found him guilty of violating 20 V.I.C. § 507. If anything, the Magistrate amended his findings to reduce the amount of the fine he could impose on Petitioner.

Finally, Petitioner has not presented any evidence indicating that the Magistrate absolved Respondent of its burden of proving Petitioner guilty beyond a reasonable doubt. Rather, during the trial, Respondent emphasized that it needed to produce "enough evidence to show beyond a reasonable doubt that" Petitioner was guilty of the crime charged, and there was no indication that the Magistrate was holding Respondent to a different standard. As a result, Petitioner has failed to show that the Magistrate committed clear error, and the Magistrate's Judgment will be affirmed.

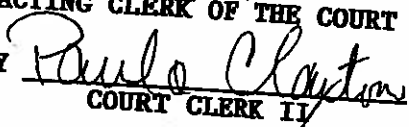
An Order consistent with this Opinion shall follow.

Dated: July 7, 2015

ATTEST: Estrella H. George
Acting Clerk of Court


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

by: 
Donna D. Donovan
Court Clerk Supervisor 7 / 7 / 15

A CERTIFIED TRUE COPY
DATE 7/7/15
ESTRELLA H. GEORGE
ACTING CLERK OF THE COURT
BY 
COURT CLERK II