

COURT OF APPEALS OF VIRGINIA

Present: Judges Baker, Fitzpatrick and Annunziata
Argued via teleconference

MARK ALLEN HAYDON

v. Record No. 2318-96-4

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION*
BY JUDGE JOSEPH E. BAKER
OCTOBER 7, 1997

FROM THE CIRCUIT COURT OF STAFFORD COUNTY
J. Peyton Farmer, Judge

Benjamin H. Woodbridge, Jr. (Woodbridge &
Reamy, on brief), for appellant.

Kathleen B. Martin, Assistant Attorney
General (James S. Gilmore, III, Attorney
General, on brief), for appellee.

Mark Allen Haydon (appellant) was convicted in a bench trial of "driving after illegally consuming alcohol" while "under the age of twenty-one" in violation of Code § 18.2-266.1. On appeal, he contends that the investigating officer did not have reasonable suspicion to stop his vehicle. We agree and reverse the conviction.

A police officer may conduct an investigatory stop of a motor vehicle if he has "articulable and reasonable suspicion" that the operator is unlicensed, the vehicle is unregistered or the vehicle or an occupant is otherwise subject to seizure for violating the law. See Murphy v. Commonwealth, 9 Va. App. 139, 143, 384 S.E.2d 125, 127 (1989) (quoting Delaware v. Prouse, 440

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

U.S. 648, 663 (1979)). This case is before us on an agreed statement of facts prepared in lieu of a transcript. We have reviewed the statement of facts and find that the police officer who arrested appellant made the arrest based upon evidence found as a result of an unlawful stop.

The record does not specifically state what Officer Kimmitz believed to be the legal basis for the stop. It reveals only that appellant's truck proceeded through a "T" intersection, joining an "access road" and Route 1 in Stafford County, "without slowing or stopping [at] the intersection." It contains no evidence permitting the conclusion that appellant had a legal duty to slow or stop at that intersection under any of the statutes cited by the Commonwealth.

For the reasons stated, we reverse the judgment of the trial court and dismiss the warrant because without the evidence acquired as a result of the illegal stop, there is no evidence to support appellant's conviction.

Reversed and dismissed.