

COURT OF APPEALS OF VIRGINIA

Present: Judges Willis, Bray and Senior Judge Hodges
Argued at Alexandria, Virginia

DOUGLAS THOMAS WHITTEMORE

v. Record No. 3005-95-4
COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION* BY
JUDGE JERE M. H. WILLIS, JR.
FEBRUARY 25, 1997

FROM THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA
Donald H. Kent, Judge

J. Burkhardt Beale (Boone, Beale, Carpenter &
Cosby, on brief), for appellant.

Marla Graff Decker, Assistant Attorney
General (James S. Gilmore, III, Attorney
General, on brief), for appellee.

Douglas Thomas Whittemore contends that the statutory double jeopardy prohibition of Code § 19.2-294 prohibits his prosecution for drunk driving after his driver's license was suspended for seven days pursuant to Code § 46.2-391.2.

This appeal is controlled by the Supreme Court's decision in Brame v. Commonwealth, 252 Va. 122, 132-33, 476 S.E.2d 177, 183-84 (1996) (holding that Code § 19.2-294 applies only to criminal proceedings and that the administrative license suspension is a civil proceeding). See also Tench v. Commonwealth, 21 Va. App. 200, 204, 462 S.E.2d 922, 923-24 (1995) (en banc) (holding that an administrative license suspension is a civil penalty and does not constitute "punishment" for double

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

jeopardy purposes); Jones v. City of Lynchburg, 23 Va. App. 167, 170, 474 S.E.2d 863, 864-65 (1996) (holding that an administrative license suspension hearing is a civil proceeding).

Accordingly, we affirm the trial court's judgment.

Affirmed.