

COURT OF APPEALS OF VIRGINIA

Present: Judges Petty, Chafin and Senior Judge Bumgardner

AMANDA JEAN TONEY

v. Record No. 0355-12-3

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION\* BY  
JUDGE RUDOLPH BUMGARDNER, III  
JANUARY 29, 2013

FROM THE CIRCUIT COURT OF FRANKLIN COUNTY  
William N. Alexander, II, Judge

(Arthur J. Donaldson, on brief), for appellant. Appellant submitting on brief.

(Kenneth T. Cuccinelli, II, Attorney General; Victoria Johnson, Assistant Attorney General, on brief), for appellee. Appellee submitting on brief.

Amanda Jean Toney appeals her conviction for driving under the influence of alcohol, Code § 18.2-266. She contends the trial court erred in admitting the results of her breathalyzer test.

At trial, the Commonwealth introduced the results of the breathalyzer test given to the defendant. Both a certificate of analysis and testimony by the state trooper conducting the test were introduced. The defendant objected to evidence of the test results because the Commonwealth did not present any evidence that the breathalyzer machine had been tested as required by Code § 9.1-1101(B)(3).

The issues raised in this appeal have been decided during the pendency of the appeal. See Fitzgerald v. Commonwealth, 61 Va. App. 279, 734 S.E.2d 708 (2012). Accordingly, we affirm for the reasons stated in Fitzgerald.

Affirmed.

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.