

**IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 43 WAP 2005
	:	
Appellant	:	
	:	
v.	:	Appeal from the Order of the Court of
	:	Common Pleas of Allegheny County
	:	entered September 26, 2005 at No. CP-
	:	02-CR-0011326-2004.
	:	
SEAN FLANAGAN DEASY,	:	
	:	
Appellee	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 21st day of November, 2007, the order of the Allegheny County Court of Common Pleas is reversed insofar as it declared Section 3802 of the Vehicle Code, 75 Pa.C.S. §3802, unconstitutional, and the case is remanded for further proceedings. This Court upheld the constitutionality of Sections 3802(a)(2) and 3802(c) in Commonwealth v. Duda, 923 A.2d 1138 (Pa. 2007), and Commonwealth v. Finchio, 926 A.2d 968 (Pa. 2007), respectively. Although Appellee was charged under Section 3802(b), this Court explained in Finchio that “[t]he difference in the statutory BAC threshold is immaterial to the analysis employed in Duda.” Finchio, 926 A.2d at 971. The Commonwealth’s petition for an immediate remand is dismissed as moot.