

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

GORDON KING,

*Defendant-Appellant.*

No. 01-4910

Appeal from the United States District Court  
for the Eastern District of Virginia, at Newport News.  
Robert G. Doumar, Senior District Judge;  
James E. Bradberry, Magistrate Judge.  
(CR-01-89, MISC-01-155)

Submitted: May 16, 2002

Decided: June 7, 2002

Before NIEMEYER and MICHAEL, Circuit Judges, and  
HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Stephen A. Hudgins, Newport News, Virginia, for Appellant. Paul J. McNulty, United States Attorney, Gary M. Parker, Special Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

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### OPINION

PER CURIAM:

Gordon King appeals his conviction and five month sentence for driving under the influence of alcohol in a third or subsequent offense, in violation of 18 U.S.C. § 13 (1994), assimilating Va. Code Ann. § 18.2-266 (Michie 1998), and unlawfully refusing to submit to a breathalyzer test, in violation of 18 U.S.C. § 3118 (1994).

King raises two issues on appeal. First, King argues the evidence was insufficient to sustain his convictions. A challenge to the sufficiency of the evidence is reviewed to determine whether, viewing the evidence in the light most favorable to the Government, substantial evidence exists to support a verdict. *Glasser v. United States*, 315 U.S. 60, 80 (1942). The testimony of the Government's witness, viewed in the light most favorable to the Government, was sufficient to sustain King's convictions. *United States v. Beidler*, 110 F.3d 1064, 1067 (4th Cir. 1997).

Second, King argues the stop of his vehicle violated the Fourth Amendment. King has waived review of this claim by his failure to bring this challenge in district court. *United States v. Ricco*, 52 F.3d 58, 62 (4th Cir. 1995).

Accordingly, we affirm King's conviction and sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.

*AFFIRMED*