

1978 WL 34749 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 7, 1978

*1 David L. Hamilton, Esquire
Hamilton and Hamilton
Post Office Box 775
Chester, SC 29706

Dear Mr. Hamilton:

Your letter to the Attorney General of March 1, 1978, has been referred to me for reply.

You have asked whether under the same set of facts an accused who is acquitted of driving too fast for conditions may thereafter be charged with reckless driving and required to stand trial therefor. Your question appears to involve a matter of double jeopardy inasmuch as you present facts indicating that the same acts resulted or could have resulted in two separate charges being brought, namely, driving too fast for conditions and reckless driving. The State, of course, can be required to elect a trial between the two if both have been charged initially. However, under the circumstances you described, it appears that generally speaking after an acquittal on a driving too fast for conditions charge, a charge of reckless driving under the same facts would be inappropriate.

I trust the preceding discussion adequately answers your questions, however, if any further explanation is needed, please feel free to contact me.

With best regards, I am
Very truly yours,

Richard P. Wilson
Assistant Attorney General

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