

1974 WL 27852 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1974

**\*1 Re: Your inquiry of July 2, 1974**

W. E. Wells  
Lieutenant  
S.C. Law Enforcement Division  
P. O. Box 1166  
Columbia, S. C. 29202

Dear Lieutenant Wells:

The seizure of blood for blood alcohol analysis without the consent of the suspect was upheld by the United States Supreme Court in [Schmerber v. California](#), 384 U.S. 757.

The Court, however, imposed two restrictions on such seizures: (1) The suspect must be in lawful custody (Under lawful arrest, or lawfully before a court or grand jury); (2) The blood must be taken under clinical conditions.

Although the taking of blood is a 'seizure' under the Fourth Amendment, no search warrant is required because, since alcohol dissipates rapidly in the blood, there are exigent or emergency circumstances which justify the warrantless seizure.

Should you need further information, please feel free to contact me.

Sincerely yours,

Joseph R. Barker  
Staff Attorney

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