

1973 WL 26565 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 2, 1973

\*1 Dr. N. J. Knoy  
Bamberg County Coroner  
Bamberg, South Carolina 29003

Dear Dr. Knoy:

You have requested this Office to advise you as to whether you in your capacity as Coroner, may order that a blood sample be taken from an individual who is involved in an automobile accident which resulted in a fatality, when this individual is unwilling to have such a blood sample taken.

The applicable law in this area is represented in the case of [Schmerber v. California](#) 384 U.S. 757, 16 L.Ed. 2d 908, 86 S.Ct. 1826. This case involved a defendant being arrested and while he was at a hospital receiving treatment for injuries suffered in an automobile accident, a blood sample was withdrawn by a physician at the direction of the police officer acting without a search warrant and despite the defendant's refusal to consent to the blood test. The report of the chemical analysis of the test, indicating intoxication, was admitted in evidence at the trial over the defendant's objection. The defendant was convicted on the basis of the blood sample and the conviction was affirmed by the California Superior Court. The case was subsequently appealed to the Supreme Court of the United States at which time it was affirmed.

Based upon this leading case, it is the law that you as Coroner may require an individual under the circumstances posed to submit to a blood test for purposes of determining intoxication and as part of your investigative procedure pursuant to your powers as Coroner.

I trust that this has been sufficient in answer to the question which you posed.

Very truly yours,

Timothy G. Quinn  
Assistant Attorney General

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