

1973 WL 26808 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 10, 1973

***1 In Re: Forcible Taking of Blood Sample or Making Toxicology Examination**

Honorable Toy C. Jones
Coroner
Greenville County
2007 Court House Annex
Greenville, South Carolina

Dear Mr. Jones:

You have inquired whether or not you are empowered by statute to order a suspect in a homicide case to give a blood sample for the purpose of analysis of alcohol content, or to submit to a toxicology examination or test.

There is no statutory authority for a coroner . . . or anyone else to make such demands or issue such an order with regard to a suspect.

The evidence to be obtained by such tests is not testamentary, however, so it is not protected by the Fifth Amendment (self-incrimination). If the blood sample can be taken or the toxicology examination given forcibly, under clinical conditions, by medical or paramedical personnel, without danger to the suspect's life or health, such evidence as is obtained will be admissible against the suspect. The suspect must be in custody before such steps would be lawful.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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