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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTINA DIANE HERNANDEZ,

Defendant and Appellant.

F070175

(Super. Ct. No. BF152141A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. H.A. Staley,  
Judge.

Tutti Hacking, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney  
General, Michael P. Farrell, Assistant Attorney General, Kathleen A. McKenna and  
Sarah J. Jacobs, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Gomes, Acting P.J., Kane, J. and Poochigian, J.

Christina Diane Hernandez argues the trial court erred when it denied her motion to suppress a blood draw taken without her consent or a search warrant. Analysis of the blood obtained from Hernandez established her blood alcohol content at the time she drove her vehicle causing a serious accident was more than twice the legal limit. After her motion to suppress was denied, Hernandez entered into a plea agreement on which judgment was entered. We conclude, as did the trial court, that exigent circumstances justified the warrantless blood draw. Accordingly, we affirm the judgment.

#### FACTUAL AND PROCEDURAL SUMMARY

The information charged Hernandez with driving negligently while intoxicated and causing serious bodily injury (Veh. Code, § 23153, subd. (a)) and driving negligently with a blood alcohol content above .08% and causing serious bodily injury (Veh. Code, § 23153, subd. (b)). Each count alleged as enhancements that Hernandez caused serious bodily injury within the meaning of Penal Code section 12022.7, subdivision (a), and that she had suffered a prior conviction for reckless driving (Veh. Code, § 23103) within the meaning of Vehicle Code section 23540.

Hernandez filed a motion to suppress the blood drawn from her at the hospital, and the analysis of that blood, because she did not consent and no search warrant was obtained. The trial court denied the motion.

Thereafter, pursuant to a plea agreement, Hernandez pled guilty to count one, and admitted the Penal Code section 12022.7, subdivision (a) enhancement. She was sentenced to the agreed upon term of four years and four months in prison.

#### DISCUSSION

Hernandez asserts the trial court erred when it denied her motion to suppress. The standard of review for a denial of a motion to suppress is well established. “ “ “In ruling on a motion to suppress, the trial court must find the historical facts, select the rule of law, and apply it to the facts in order to determine whether the law as applied has been violated. We review the court’s resolution of the factual inquiry under the deferential

substantial-evidence standard. The ruling on whether the applicable law applies to the facts is a mixed question of law and fact that is subject to independent review.”

[Citation.] On appeal we consider the correctness of the trial court’s ruling *itself*, not the correctness of the trial court’s *reasons* for reaching its decision. [Citations.]’

[Citation.] ¶ ‘Pursuant to article I, section 28, of the California Constitution, a trial court may exclude evidence under Penal Code section 1538.5 only if exclusion is mandated by the federal Constitution.’ [Citation.] The Fourth Amendment to the federal Constitution prohibits *unreasonable* searches and seizures.” (*People v. Bryant* (2014) 60 Cal.4th 335, 364-365.)

The parties agree our analysis must be guided by two United Supreme Court cases. The first is *Schmerber v. California* (1966) 384 U.S. 757 (*Schmerber*). Schmerber was arrested for driving while under the influence of alcohol. Over Schmerber’s objection, a police officer obtained a sample of Schmerber’s blood through the assistance of a physician at the hospital where Schmerber was being treated for injuries sustained in the accident he caused. The Supreme Court quickly disposed of Schmerber’s claim that the blood draw violated his Sixth Amendment right to counsel, his Fourteenth Amendment right to due process, and his Fifth Amendment privilege against self-incrimination. (*Schmerber* at pp. 759-766.) It then turned to the argument that the involuntary blood draw violated his Fourth Amendment protection against warrantless searches and seizures.

The Supreme Court framed the issue as follows: “[T]he Fourth Amendment’s proper function is to constrain, not against all intrusions as such, but against intrusions which are not justified in the circumstances, or which are made in an improper manner. In other words, the questions we must decide in this case are whether the police were justified in requiring petitioner to submit to the blood test, and whether the means and procedures employed in taking his blood respected relevant Fourth Amendment standards of reasonableness.” (*Schmerber* at p. 768.)

The Supreme Court began its analysis by observing Schmerber's obvious signs of intoxication (odor of alcohol and bloodshot, watery eyes) provided probable cause for an arrest of Schmerber. (*Schmerber* at p. 769.) However, a warrant was required to obtain the blood draw absent an emergency. "Although the facts which established probable cause to arrest in this case also suggested the required relevance and likely success of a test of petitioner's blood for alcohol, the question remains whether the arresting officer was permitted to draw these inferences himself, or was required instead to procure a warrant before proceeding with the test. Search warrants are ordinarily required for searches of dwellings, and absent an emergency, no less could be required where intrusions into the human body are concerned. The requirement that a warrant be obtained is a requirement that inferences to support the search 'be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.' [Citations.] The importance of informed, detached and deliberate determinations of the issue whether or not to invade another's body in search of evidence of guilt is indisputable and great." (*Id.* at p. 770.)

The Supreme Court concluded, however, the Fourth Amendment was not violated in Schmerber's case.

"The officer in the present case, however, might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened 'the destruction of evidence,' [citation]. We are told that the percentage of alcohol in the blood begins to diminish shortly after drinking stops, as the body functions to eliminate it from the system. Particularly in a case such as this, where time had to be taken to bring the accused to a hospital and to investigate the scene of the accident, there was no time to seek out a magistrate and secure a warrant. Given these special facts, we conclude that the attempt to secure evidence of blood-alcohol content in this case was an appropriate incident to petitioner's arrest." (*Schmerber* at pp. 770-771.)

The Supreme Court revisited this issue in *Missouri v. McNeely* (2013) 133 S.Ct. 1552 (*McNeely*), the second case cited by the parties. The opinion began by framing the

issue presented in the case, and the court's holding. "In *Schmerber v. California* (1966) 384 U.S. 757, this Court upheld a warrantless blood test of an individual arrested for driving under the influence of alcohol because the officer 'might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened the destruction of evidence.' (*Id.* at p. 770, internal quotation marks omitted.) The question presented here is whether the natural metabolization of alcohol in the bloodstream presents a *per se* exigency that justifies an exception to the Fourth Amendment's warrant requirement for nonconsensual blood testing in all drunk-driving cases. We conclude that it does not, and we hold, consistent with general Fourth Amendment principles, that exigency in this context must be determined case by case based on the totality of the circumstances." (*McNeely* at p. 1556.)

McNeely was stopped for a traffic violation. When the officer approached McNeely, he observed several signs of intoxication. McNeely then performed poorly on a battery of field sobriety tests. McNeely refused a breath test to check his blood alcohol content, so the officer took him to a hospital. McNeely refused a blood draw. Despite McNeely's refusal, and without attempting to obtain a warrant, the officer directed a hospital employee to make a blood draw.

After summarizing *Schmerber*, the Supreme Court noted "the warrant requirement is subject to exceptions." (*McNeely* at p. 1558.)

" 'One well-recognized exception,' and the one at issue in this case, 'applies when the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment.' [Citation.] A variety of circumstances may give rise to an exigency sufficient to justify a warrantless search, including law enforcement's need to provide emergency assistance to an occupant of a home, [citation], engage in 'hot pursuit' of a fleeing suspect, [citation], or enter a burning building to put out a fire and investigate its cause, [citation]. As is relevant here, we have also recognized that in some circumstances law enforcement officers may

conduct a search without a warrant to prevent the imminent destruction of evidence. [Citations.] While these contexts do not necessarily involve equivalent dangers, in each a warrantless search is potentially reasonable because ‘there is compelling need for official action and no time to secure a warrant.’ [Citation.]

“To determine whether a law enforcement officer faced an emergency that justified acting without a warrant, this Court looks to the totality of circumstances. [Citations.] We apply this ‘finely tuned approach’ to Fourth Amendment reasonableness in this context because the police action at issue lacks ‘the traditional justification that ... a warrant ... provides.’ [Citation.] Absent that established justification, ‘the fact-specific nature of the reasonableness inquiry,’ [citation], demands that we evaluate each case of alleged exigency based ‘on its own facts and circumstances.’ ”  
(*McNeely* at pp. 1558-1559.)

The *McNeely* opinion observed that *Schmerber* fell squarely within the exigent circumstances exception because the court “considered all of the facts and circumstances of the particular case and carefully based our holding on those specific facts.” (*McNeely* at p. 1560.)

However, the Supreme Court rejected the per se rule proposed by the petitioner which would allow blood draws without a warrant in all suspected drunk driving cases.

“It is true that as a result of the human body’s natural metabolic processes, the alcohol level in a person’s blood begins to dissipate once the alcohol is fully absorbed and continues to decline until the alcohol is eliminated. [Citations.] Testimony before the trial court in this case indicated that the percentage of alcohol in an individual’s blood typically decreases by approximately 0.015 percent to 0.02 percent per hour once the alcohol has been fully absorbed. [Citation.] More precise calculations of the rate at which alcohol dissipates depend on various individual characteristics (such as weight, gender, and alcohol tolerance) and the circumstances in which the alcohol was consumed. [Citation.] Regardless of the exact elimination rate, it is sufficient for our purposes to note that because an individual’s alcohol level gradually declines soon after he stops drinking, a significant delay in testing will negatively affect the probative value of the results. This fact was essential to our holding in *Schmerber*, as we recognized that, under the circumstances, further delay in order to secure a warrant after the time spent investigating the scene of the accident and transporting the injured suspect to the hospital to receive treatment would have threatened the destruction of evidence. [Citation.]

“But it does not follow that we should depart from careful case-by-case assessment of exigency and adopt the categorical rule proposed by the State and its *amici*. In those drunk-driving investigations where police officers can reasonably obtain a warrant before a blood sample can be drawn without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so. [Citation.] We do not doubt that some circumstances will make obtaining a warrant impractical such that the dissipation of alcohol from the bloodstream will support an exigency justifying a properly conducted warrantless blood test. That, however, is a reason to decide each case on its facts, as we did in *Schmerber*, not to accept the ‘considerable overgeneralization’ that a *per se* rule would reflect.” (*McNeely* at pp. 1560-1561.)

The Supreme Court recognized that in most cases a police officer would be able to obtain a warrant for a blood draw, contrasting the situation with those where police officers are confronted with a “now or never” situation. (*McNeely* at p. 1561.) Factors which supported the requirement that a warrant be obtained in most cases included (1) the blood alcohol content of a person’s blood dissipates over time in a gradual and predictable manner, (2) inevitably time will be lost in most cases for transportation to the hospital where the blood draw will be conducted, and (3) in many cases an assisting officer could obtain the warrant while the suspect was being transported to the hospital. (*Id.* at pp. 1561-1562.) An officer’s ability to obtain a search warrant by telephone also dramatically reduced the time needed to obtain a warrant, again militating against the proposed *per se* rule. (*Id.* at p. 1562.)

The opinion concluded, however, by emphasizing the limited scope of its holding, and recognizing that in some cases it will not be possible to obtain a warrant.

“We by no means claim that telecommunications innovations have, will, or should eliminate all delay from the warrant-application process. Warrants inevitably take some time for police officers or prosecutors to complete and for magistrate judges to review. Telephonic and electronic warrants may still require officers to follow time-consuming formalities designed to create an adequate record, such as preparing a duplicate warrant before calling the magistrate judge. [Citation.] And improvements in communications technology do not guarantee that a magistrate judge will be available when an officer needs a warrant after making a late-night

arrest. But technological developments that enable police officers to secure warrants more quickly, and do so without undermining the neutral magistrate judge's essential role as a check on police discretion, are relevant to an assessment of exigency. That is particularly so in this context, where BAC evidence is lost gradually and relatively predictably.

“Of course, there are important countervailing concerns. While experts can work backwards from the BAC at the time the sample was taken to determine the BAC at the time of the alleged offense, longer intervals may raise questions about the accuracy of the calculation. For that reason, exigent circumstances justifying a warrantless blood sample may arise in the regular course of law enforcement due to delays from the warrant application process. But adopting the State's *per se* approach would improperly ignore the current and future technological developments in warrant procedures, and might well diminish the incentive for jurisdictions ‘to pursue progressive approaches to warrant acquisition that preserve the protections afforded by the warrant while meeting the legitimate interests of law enforcement.’ [Citation.]

“In short, while the natural dissipation of alcohol in the blood may support a finding of exigency in a specific case, as it did in *Schmerber*, it does not do so categorically. Whether a warrantless blood test of a drunk-driving suspect is reasonable must be determined case by case based on the totality of the circumstances.” (*McNeely* at pp. 1562-1563, fn. omitted.)

With this analytical framework in mind, we turn to the evidence presented at the hearing on Hernandez's motion to suppress. The parties stipulated that a warrant was not obtained before blood was drawn from Hernandez. Bakersfield Police Officer Caleb Kiser was the only witness to testify at the hearing.

Kiser responded to the scene where Hernandez had caused the accident at 8:40 p.m. Hernandez's vehicle had moderate to major damage to the front end. Hernandez was in the driver's seat of the vehicle. Kiser observed that Hernandez appeared to have suffered a compound fracture to her right ankle. The ankle appeared to be “hanging on by a thread,” and the bone was exposed. Hernandez was transported by ambulance to the hospital, while Kiser followed in his vehicle. At the hospital Kiser smelled the odor of alcohol coming from Hernandez's breath and person.

Kiser was informed by medical personnel that Hernandez had been given a narcotic analgesic for pain.<sup>1</sup> Kiser attempted to speak with Hernandez, but because of her injuries and the narcotics administered by hospital staff, a coherent conversation with Hernandez was not possible. Kiser was informed by a physician that Hernandez had a compound fracture to the right foot, and possible major internal injuries from her seat belt. The physician told Kiser that Hernandez would be taken to surgery immediately to determine the severity of her internal injuries.

Kiser decided to obtain a blood draw, and observed while a hospital nurse performed the task. Kiser then took the vials into his possession to return to the property room.

When asked if he considered getting a search warrant for the blood draw, Kiser testified in a somewhat contradictory manner, "I didn't believe there was exigent circumstances. I did not have time to obtain the search warrant. Obviously, Ms. Hernandez was not able to express her consent for the blood draw based on the fact that they were taking her to immediate surgery." Kiser thought Hernandez might be in surgery for hours based on the information he obtained from the hospital physician. He also believed he would not be able to enter the surgery room to obtain a blood draw once surgery began.

On cross-examination, Kiser confirmed he arrived at the accident scene at 8:46 p.m., arrived at the hospital at 9:07 p.m., and the blood draw took place at 9:25 p.m. Kiser also confirmed he had never applied for a telephonic search warrant, although he knew it was an option.

Defense counsel offered a portion of Hernandez's hospital records as an exhibit at the hearing. Using those records defense counsel argued that Hernandez was not sent to

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<sup>1</sup> Information obtained by Kiser from medical personnel was not admitted for its truth, but only to establish Kiser's state of mind when he made the decision to obtain a blood draw without a warrant.

surgery until over two hours after the blood was drawn from Hernandez, thus establishing Kiser had ample time to obtain a telephonic search warrant. Accordingly, defense counsel argued there were no exigent circumstances and therefore the motion should be granted.

The trial court denied the motion concluding that exigent circumstances justified the warrantless search. We agree with the trial court's conclusion.<sup>2</sup> *Schmerber* and *McNeely* establish that we are required to examine the totality of the circumstances to determine if the circumstances in this case justify the failure to obtain a search warrant.

The relevant circumstances in this case are that Hernandez suffered serious injuries in the collision. She was transported to the hospital by ambulance. When Kiser arrived at the hospital he could smell the odor of alcohol emanating from Hernandez's breath and body. Kiser was informed by one of the treating physicians that Hernandez would be taken for emergency surgery to determine the extent of internal injuries, and to repair a compound fracture of the right ankle. Kiser attempted to obtain Hernandez's consent for a blood draw, but because of her injuries and the fact she had been administered narcotics for pain by hospital staff, he was not able to obtain a coherent response from Hernandez.

It was only after evaluating these facts that Kiser determined to proceed without a warrant. Plainly, the inability to obtain a breath or blood sample would result in the loss of evidence. The issue is whether Kiser should have taken the time to obtain a telephonic search warrant, or did exigent circumstances permit him to proceed without a warrant. The fact Kiser reasonably believed that Hernandez would undergo emergency surgery left him little time to act. During surgery he did not believe he would be able to obtain a blood draw. In addition, Kiser believed that because of the amount of time needed for the

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<sup>2</sup> Because we conclude exigent circumstances existed, we do not need to address Hernandez's contention that the People have forfeited the argument that Kiser acted in good faith.

surgeries, elimination of alcohol from Hernandez's blood over time would render any results unreliable. Accordingly, Kiser believed he needed to act quickly or evidence would be lost. We also observe the possibility that fluid added to Hernandez's blood during surgery to meet her medical needs (such as intravenous fluids, analgesics, or blood transfusion) would result in a blood sample which was unreliable. These facts establish exigent circumstances excusing the absence of a warrant.

Hernandez presents several arguments in an attempt to convince us that a warrant was required before her blood was drawn. First, Hernandez asserts there were no exigent circumstances because Kiser conceded that fact in his testimony. We have quoted Kiser's testimony on which Hernandez relies in our summary. Kiser did say that he did not believe exigent circumstances existed, but immediately contradicted this statement by asserting he did not have time to obtain a search warrant. We do not find this testimony significant. It is the job of this court to determine whether exigent circumstances existed. Kiser's opinion, especially when given in such a contradictory fashion, is entitled to no weight. We note Kiser may simply have misspoken, or the reporter misheard Kiser's response. In any event, we reject Hernandez's reliance on this portion of Kiser's testimony.

Next, Hernandez asserts that Kiser knew at the scene of the accident that it was possible that Hernandez may have been intoxicated based on a conversation Kiser allegedly had with another officer. Therefore, according to Hernandez, Kiser should have applied for a telephonic warrant while en route to the hospital.

First, Hernandez is relying on Kiser's testimony at the preliminary hearing, which was not introduced into evidence. Kiser testified at the hearing on Hernandez's motion to suppress that he did not know Hernandez may have been drinking until he arrived at the hospital and smelled the odor of alcohol emanating from her body and breath. And while Kiser testified he spoke with witnesses at the scene, he did not provide any testimony about what he was told by those witnesses. Therefore, Kiser's testimony does not

support the argument that he knew at the scene that Hernandez may have been intoxicated, and that he knew the facts surrounding the accident.

Second, even if Kiser suspected Hernandez was intoxicated, he acted reasonably when he proceeded directly to the hospital to seek permission from Hernandez to conduct a blood draw. Vehicle Code section 23612, subdivision (a)(1) provides that every person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content or the drug content of his or her blood, if lawfully arrested for a driving while intoxicated offense. The failure to submit to the required chemical testing carries severe penalties, including a mandatory prison sentence if convicted, and loss of the person's driving privilege for one year. Kiser did not know until he arrived at the hospital and attempted to speak with Hernandez that she lacked the capacity to consent to a blood draw. Therefore, Kiser acted prudently when he attempted to obtain Hernandez's consent to the blood draw before initiating a request for a search warrant. Moreover, he did not know he would not have time to obtain a search warrant until he arrived at the hospital and he was informed that Hernandez would be having surgery almost immediately.

Hernandez's argument seeks to impose a per se rule requiring police officers to apply for a telephonic search warrant every time an accident occurs and the driver is transported to the hospital. There is no authority for such a rule, and we will not endorse the concept here.

Hernandez next argues that all of the information obtained by Kiser from the treating physician should be ignored, and our decision based only on the medical records from the hospital that were submitted into evidence. According to Hernandez, these records establish that she was not sent to surgery for almost two hours after the blood draw. Therefore, Hernandez asserts there were no exigent circumstances and Kiser was required to obtain a search warrant for the blood draw.

We need not determine when Hernandez had surgery, because the issue is not relevant. Kiser's testimony about what he learned from the treating physician was admitted only to establish his state of mind, not for the truth of the matter. However, Kiser's state of mind is the key. What Kiser believed to be true is the basis for concluding exigent circumstances existed. Hernandez did not contend at the hearing, and does not contend on appeal, that Kiser was not told that Hernandez was going to have surgery immediately. Therefore, Hernandez's argument is actually that because Kiser was mistaken in his belief that Hernandez was going to have surgery immediately, no exigent circumstances existed.

Hernandez does not cite any relevant authority to support this argument, perhaps because the relevant authority is to the contrary. In *Maryland v. Garrison* (1987) 480 U.S. 79, the Supreme Court held that an objectively understandable mistake of fact does not invalidate a search warrant, or require suppression of evidence seized as a result of that mistake. (*Id.* at pp. 85-88.) The error in *Garrison* occurred when police officers obtained an otherwise valid search warrant for the premises of McWebb, who lived in a third floor apartment. Officers reasonably believed the entire third floor consisted of only one apartment, that rented by McWebb. The third floor actually contained two apartments, one occupied by McWebb and one occupied by Garrison. When searching Garrison's apartment the police discovered contraband which Garrison sought to suppress. The Supreme Court concluded the Fourth Amendment was not violated. It observed that the courts must judge the constitutionality of the officers' conduct "in light of the information available to them at the time they acted." (*Id.* at p. 85.) There is no reason the same rule would not apply when judging an officer's determination that exigent circumstances justified action taken without a warrant.

A similar result was reached in *In re Jeremy G.* (1998) 65 Cal.App.4th 553 (*Jeremy G.*). A police officer had reason to suspect that marijuana was being sold from a specific apartment. The officer went to the apartment and encountered Jeremy, who was

wearing a detention bracelet on his ankle. The officer asked Jeremy if he was subject to a search condition, and Jeremy replied he was subject to one for weapons. The officer conducted a search and discovered contraband. Jeremy moved to suppress the contraband because at the time of the search he was *not* subject to a search condition. The appellate court rejected the argument.

“There was no prior improper act by the government which led to the search. No government official told [the officer] that the minor was subject to search for weapons. That information came directly from the minor. The fact the minor was in error is immaterial. The question here is not whether the minor had a searchable condition attached to his release; rather the question is whether [the officer] was reasonable in relying on the minor’s statement that he had such a condition.

“[The officer’s] reliance on the minor’s statement that he was searchable for weapons was reasonable. The minor was 16 years old, and nothing in the record shows he exhibited signs of immaturity or lack of normal intelligence. Given this state of the record, [the officer] could reasonably believe the minor was aware of his legal circumstances and would not make a statement against his interest unless it was true. Indeed, it has long been recognized that statements made against one’s interests, for that very fact, are reliable. [Citation.] Since [the officer] was reasonable in relying on the minor’s statement, and therefore was entitled to conduct the search, the juvenile court erred in granting the suppression motion.” (*Jeremy G.* at p. 556.)

Just as the officer in *Jeremy G.* acted reasonably in relying on the minor’s erroneous statement, here Kiser acted reasonably in relying on the treating physician’s statement that Hernandez would have surgery immediately. The treating physician would be expected to know the course of treatment to which Hernandez would be subject, and Kiser did not have any reason to doubt her truthfulness or accuracy.

Hernandez cites four cases, two related to probable cause for an arrest, and two search and seizure cases. The cases addressing probable cause to arrest are inapposite because the officer is required to perform a different analysis. The first search and seizure case, *People v. Morales* (2014) 224 Cal.App.4th 1587, is not a Fourth

Amendment case. Hernandez cites to the procedural summary in the appellate court opinion, not to the analysis of any issue addressed by the appellate court. As such, the case has no precedential value.

The second search and seizure case, *Broden v. Marin Humane Society* (1999) 70 Cal.App.4th 1212, does not assist Hernandez. The case actually addresses the right of animal control officers to enter a building to protect an animal as provided by statute. The appellate court observed the analysis required to be performed was the same analysis applicable in search and seizure cases where exigent circumstances were at issue, i.e. whether the officer confronted an emergency situation requiring swift action to save life, property, or evidence. (*Id.* at p. 1221.) The court then noted that each such case must be analyzed “in light of what was known to the officer at the time of entry.” (*Ibid.*) The appellate court concluded the facts before the animal control officer, a report of strong odors emanating from the store, the smell of dead animals emanating from the store when the officer arrived, and flies both inside the store and attempting to enter the store, justified the warrantless entry. (*Id.* at pp. 1221-1222.)

Hernandez argues this case stands for the proposition that a police officer must obtain corroboration of facts obtained from other sources before concluding exigent circumstances exist. We note no such rule cited in any case, but even if such a rule existed, Kiser had ample corroboration in this case. When Kiser was told that emergency surgery was to occur immediately, he had already observed Hernandez’s injuries. He described the injury to Hernandez’s leg, indicating it appeared the foot was attached by a string to the leg, with bone and blood visible. He had also personally observed the damage to Hernandez’s vehicle, which corroborated the physician’s assertion that Hernandez had suffered extensive internal injuries from her seatbelt. Kiser’s personal observations thus provided ample corroboration that emergency surgery was likely required to save Hernandez’s life. Therefore, even if the rule posited by Hernandez existed, which it doesn’t, it was fully complied with in this case.

DISPOSITION

The judgment is affirmed.