

QUESTION 5 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II  
OR IN EXAMPLIFY ANSWER SCREEN 5

Cindy worked as a nurse and lived with her boyfriend, Doug, who was a drug dealer. Cindy owned a Cadillac SUV which she purchased from her nursing wages. Doug grew marijuana in their house which he sold. He also sold prescription drugs.

Doug was arrested for the sale of drugs. The police executed a search warrant on Cindy and Doug's home. They seized Doug's Jeep, his laptop, marijuana plants and cash. The police also seized Cindy's Cadillac. The police sought to forfeit all the property as drug proceeds. Doug did not contest the forfeiture of any of the property. Cindy sought to contest the forfeiture of her Cadillac.

The relevant statute provides that property may be seized incident to a lawful arrest, which happened in this case. The law continues that if a person seeks to contest a forfeiture they must post a bond in the amount of 10% of the value of the contested item but no bond amount greater than \$5,000 is required. If no bond is posted the property is forfeited.

Cindy's Cadillac was worth \$35,000 so she was required to post a \$3,500 bond. However, despite all her best efforts, Cindy could only post \$2,000 and did so.

The police told Cindy that her bond was insufficient because she was \$1,500 short of the proper amount. The prosecutor told her the same thing and forfeited her Cadillac.

Cindy has filed a petition in court claiming she has been deprived of her constitutional ability to contest the forfeiture of her car.

How should the court rule on Cindy's petition? Explain the legal basis for your conclusion.

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