

**QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III
OR IN SOFTEST ANSWER SCREEN 8**

Although not much of a drinker, RB went to a retirement party at a local bar to help celebrate a co-worker's 25 years on the job. While there he drank too much. When the party started to wind down, RB headed for the door and got into his oversized high-powered truck. His truck was observed traveling at speeds between 60 and 70 miles per hour in a zone with a posted speed limit of 35 miles per hour. Heading down the street he normally drove home, RB's vehicle passed other vehicles, which were ostensibly slowing down for an upcoming red light. RB failed to stop at the red light and collided with a much smaller vehicle, killing its driver instantly. RB's blood level was determined to be .18, well over the legal limit. Injured as well, RB could not remember any of the events of the evening, despite driving down a street in an area familiar to him.

Although he could have been charged with lesser offenses, RB was charged by the prosecutor with second-degree murder. Defense counsel moved the court to dismiss the second-degree murder charge, contending the facts presented could not establish the requisite intent for the charge.

Evaluate the defense motion and indicate how the court should rule.

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