

QUESTION 11 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV
OR IN EXAMPLIFY ANSWER SCREEN 11

After Donald David's 20-something daughter, Misty, got mixed up in an all-night drinking party, she returned home the next morning and told her father that her cell phone was left inside the house where the party had taken place. Misty explained to her father that the men she had been drinking with denied having the phone.

Incensed by what Misty was telling him, David got the address from Misty and then got his semi-automatic pistol for the trip to the house. A convicted felon, David was not legally allowed to have the firearm. Misty hollered at her father, "I don't want the phone, don't go over there." Nevertheless, armed with the weapon, he drove to the house to retrieve the cell phone despite Misty's admonition.

David, on arrival, knocked on the front door of the house. When homeowner Mel answered, David demanded entry, explaining he was Misty's father. Mel responded with choice words, ordering David off his porch. Even more angry, David bull-rushed through the door knocking Mel down and landing on top of him. David began pistol-whipping Mel in the face, screaming "what did you do to my daughter?!"

Mel broke free and ran for the back door of his house, crashing through the sliding glass door, but not before David got off three shots, hitting Mel with two in the back. David was eventually charged with Assault with Intent to Murder and Home Invasion.

David does not dispute these facts and circumstances, but maintains he acted in legitimate self-defense under both Michigan's "Stand Your Ground Law" and the common law. He also maintains that, because he was attempting to retrieve his daughter's phone, he acted under a legitimate claim of right.

Evaluate the potential success of these stated defenses. Explain your answer.

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