

QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II

Police Officers Smith and Jones were investigating drug trafficking among a gang of teenagers who were suspected of manufacturing methamphetamine and distributing it in local high schools.

The police officers suspected that the gang was manufacturing the drugs in the home in which Paul Pusher lived with his parents. However, at this stage of their investigation they did not have enough evidence to obtain a warrant to search the home. One day, while Officer Smith was attending to paperwork at the station, Officer Jones observed a group of teenagers enter through the front door of the home of Paul Pusher. One of the teenagers appeared to be carrying a small propane tank. After approximately 30 minutes, Officer Jones knocked on the front door of the Pusher home to inquire about the contents of the tank. Officer Jones did not observe that the boys, accompanied by Paul Pusher, had left the home through the rear door shortly after their arrival.

When nobody answered the front door, Officer Jones went to the rear of the house and knocked on the rear door. Nobody answered. Officer Jones looked into a basement window located next to the rear door of the home. He observed a Bunsen burner with an extraordinarily high flame burning under a petri dish filled with liquid and solid substances. Based on his experience, Officer Jones believed this was a lab constructed for the manufacture of methamphetamine. Officer Jones knew that such labs often result in explosions that expose the public to hazardous chemicals. Officer Jones feared that the apparently unattended and excessively large flame burning under substances he suspected to be dangerous chemicals could result in an explosion. He again knocked loudly on the rear door, but nobody responded. Believing that the residents in neighboring homes were in peril and recognizing that evidence of a crime could be destroyed in an explosion, Officer Jones forced his way into the home and extinguished the flame. Once in the basement, Officer Jones observed a large quantity of suspected methamphetamine located under the table on which the Bunsen burner was placed.

Officer Jones then extensively searched through the entire premises and found several guns and \$25,000 in cash in the attic of the home. Officer Jones seized the lab paraphernalia, the drugs, the guns and the cash and called Officer Smith to inform him of his find.

Officer Smith indicated that he was in the process of talking

to Paul's parents, Bob and Alice Pusher. The Pushers appeared at the police station to express concern over the gang of teenagers with whom their son Paul was associating. They feared that Paul was engaged in illegal drug activity. After learning of Officer Jones' discovery, Officer Smith informed the Pushers that the officer with whom he was speaking on the telephone observed through a basement window of the Pusher home activity that is consistent with the illegal manufacture of methamphetamine. Officer Smith then asked the Pushers, "may the police have permission to search your home?" The Pushers freely and voluntarily consented to a search of their home.

Paul Pusher, age 18, was charged with the manufacture and distribution of methamphetamine and possession of a firearm during the commission of a felony. His lawyer has filed a motion to suppress the guns, cash, drugs and paraphernalia found in the home.

Discuss the legal arguments that may be advanced for and against Paul's motion and how the trial court is likely to rule.

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