

**QUESTION 14 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V
OR IN EXAMPLIFY ANSWER SCREEN 14**

Executing a search pursuant to a validly issued warrant, members of the Drug Enforcement Team (DET) entered and searched a single-family dwelling located on Washtenaw Avenue in Laredo, Michigan. The home was a two-bedroom, single-story house that also contained a kitchen, dinette, and living room.

The search of the home yielded the following evidence. On a coffee table in the living room were two small bundles of mail with one group of letters addressed to Sam Sellers and the other group to a Hugh Harvey. Hidden within the seat cushions of the living room couch were four small plastic bags containing a white powder suspected, and later tested, to be cocaine. In the front bedroom, officers found multiple packs of cigarettes and normal bedroom items, including a closet full of leisure suits in size triple extra-large. Police knew Harvey to be 6'1" and to weigh 295 pounds.

In the back bedroom, officers found a prescription for a cholesterol medication for Sam Sellers in a nightstand drawer. In the same bedroom's closet, officers found a sizeable amount of white powder in a large plastic bag, later tested to be 32 grams of cocaine. Also found were a scale and packaging materials, including four small baggies, each with a substance of white powder inside, later tested to be cocaine. A handwritten ledger containing names, amounts of money and what appeared to be drug quantities was also found in the nightstand drawer. Clothing in the bedroom closet, while a variety from dress to casual clothes, all bore the size "medium." Officers knew Sellers to be 5'8" and to weigh 165 pounds.

Based on the seized items and their location, Sellers was charged with Possession with Intent to Deliver less than 50 grams of cocaine. Harvey was not charged. Under Michigan law, possession with intent to deliver is a far more serious crime than possession of cocaine. Sellers contends that the charge should be dismissed because the evidence does not establish that (1) he actually possessed cocaine, and (2) he had the intention to deliver cocaine. He did not dispute that the substance was cocaine.

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Given the foregoing, address the following under Michigan law:

1. What are the elements of the charged offense?
2. Does Sellers make a persuasive argument that to be convicted, he must be in actual possession?
3. Evaluate Seller's claim that the facts fail to demonstrate the intent to deliver. Fully explain your conclusion.

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