

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

Patrol Officer Murphy was travelling one night behind a late-model truck when it stopped at a red light. Officer Murphy noticed only one brake light illuminated when the vehicle stopped. Murphy followed the vehicle to the next stop light where it again stopped; only one brake light illuminated.

When the vehicle began moving again, Murphy activated his siren and lights and pulled the driver, Dirk David, over for a violation of a local ordinance requiring working brake lights. Murphy approached the truck and questioned Dirk. While questioning Dirk, Murphy detected the strong odor of marijuana emanating from Dirk and his truck. Murphy also saw what appeared to be a large, clear-plastic bag underneath Dirk. The bag appeared to contain marijuana. Dirk was ordered out of the vehicle. As he got out, a large bag of marijuana was clearly visible. Murphy seized the marijuana.

Dirk was charged with possession with intent to deliver marijuana. Defense counsel moved to suppress the seizure of the marijuana. Counsel's request is based solely on the argument that the stop of Dirk's truck violated his Fourth Amendment rights. Counsel argues that the local ordinance on which Murphy stopped Dirk only requires one working brake light. Because Dirk did have one working brake light, there was no traffic violation and, therefore, Murphy's stop of Dirk was improper. Counsel says without the stop, the seizure was invalid, requiring suppression. Counsel does not contest the seizure was valid if the stop was valid.

The prosecutor conceded that the stop must be valid to allow the seizure of the marijuana. The prosecutor counters, however, that the stop was valid. Agreeing that the ordinance requires only one working brake light (and that Dirk's vehicle had one working brake light), the prosecutor nevertheless argued that Officer Murphy's mistake about what the law required, which led to the stop, did not render the stop invalid for Fourth Amendment purposes. The prosecutor contended Murphy's mistake was a reasonable mistake of law.

Defense counsel replied that it did not matter if Murphy's mistake was a reasonable mistake of law, because only reasonable mistakes of fact are allowed under the Fourth Amendment to

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justify a stop. Counsel added that even assuming a reasonable mistake of law, suppression is still required by the Fourth Amendment.

1. Fully address the Fourth Amendment principles involved.
2. Discuss their application to Dirk's suppression motion.
3. How should the court rule on Dirk's motion to suppress?