

**QUESTION 13 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V
OR IN SOFTEST ANSWER SCREEN 13**

Tommy Thompson was arrested on a validly issued murder warrant by a homicide detective and a uniformed officer. His mother saw the arrest on the front lawn. She hollered out to the officers, "Where are you taking my son?" The detective responded "to the detective bureau at the police station."

Tommy's mother immediately called their family attorney. Attorney Askins quickly excused himself from a meeting and headed to the police station. However, due to the distances involved, the detective arrived 15 minutes earlier, so Tommy was taken into the detective bureau for questioning.

Before Detective Upton began the interrogation of Tommy, he got a call from the front desk sergeant who told him an Attorney Askins was there, had been retained by Tommy's mother, and that Askins wanted to be present with Tommy. Upton simply said, "Yeah" and hung up the phone.

Without mentioning that Askins was there to see Tommy, Upton advised Tommy of his Miranda rights. Tommy waived his rights under Miranda and signed a departmental issued form confirming his understanding of his rights and his waiver of them. Tommy then quickly confessed to the murder.

After Tommy was charged, Askins moved the court to suppress Tommy's confession. The prosecutor responded that Tommy's confession was perfectly admissible, he had been advised of his rights, waived them, and both his understanding and waiver were documented by the signed form. Askins responded that Upton's failure to advise Tommy he was present and wanted to speak with him, invalidated Tommy's Miranda waiver.

(1) Discuss what factors the court must consider to determine whether Tommy validly waived his Miranda rights. Also discuss whether Askins' argument, in light of those factors, should be sustained.

(2) Discuss whether your answer would be different under Michigan law.