

COA Opinion: Struggle for a firearm may support a conviction for possession of that firearm

29. July 2011 By Nicole Mazzocco

On July 28, 2011, the Michigan Court of Appeals published its opinion in [People v. Strickland, No. 298707](#). The Court affirmed the defendant's convictions of first-degree home invasion, assault with intent to do great bodily harm less than murder, felon in possession of a firearm, felonious assault, and possession of a firearm during the commission of a felony. The defendant had sought reversal on three grounds: improper refusal to appoint new counsel, insufficient evidence, and violation of double jeopardy. The Court rejected the defendant's arguments.

The Court first considered whether the trial court abused its discretion by failing to appoint the defendant new counsel upon the defendant's request. Here, the defendant requested new counsel on the day of trial, and failed to articulate any specific objection to his counsel's handling of the case. The Court held that under these facts the trial court did not abuse its discretion.

Second, the Court examined the sufficiency of the evidence. At trial, evidence was presented that the defendant broke into the victims' home, attacked the victim, and struggled with the victim for possession of the victim's firearm. The struggle resulted in the victim being shot in the hand. The Court held that this evidence was sufficient to support convictions on all counts.

Third, the Court asked whether the defendant's convictions violated the constitutional protections against double jeopardy. The defendant argued that he should not have been convicted of both assault with intent to do great bodily harm less than murder and felonious assault. The Court held that the double-jeopardy provisions of the Michigan and United States Constitutions were not violated because these two crimes have different elements.