

## COA Opinion: Intent to commit two separate felonies during the course of a single home invasion does not support two separate home invasion convictions

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12. May 20 By Jason Byrne

On May 11, 2010, the Court of Appeals published its opinion in *People v. Baker*, No. 286769. Through an opinion authored by Judge O'Connell, the Court of Appeals ordered that one of the defendant's two home invasion convictions be vacated. It was undisputed that the two separate convictions were based on a single, continuous home invasion. The defendant argued that these multiple convictions violated constitutional protections against double jeopardy. The prosecution argued that, because the defendant both intended/committed a sexual assault during the home invasion, and intended/committed larceny during the home invasion, the separate home invasion counts involved different essential elements and supported two separate convictions. The Court of Appeals disagreed, finding that the essential element was the same: intent to commit, or commission of a felony. The Court characterized the prosecution's case as two different theories to establish that single necessary element. However, two different theories did not support two separate convictions. Therefore, the Court of Appeals ordered that one of the home invasion convictions be vacated.