Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

GAMBLE *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 17–646. Argued December 6, 2018—Decided June 17, 2019

Petitioner Gamble pleaded guilty to a charge of violating Alabama's felon-in-possession-of-a-firearm statute. Federal prosecutors then indicted him for the same instance of possession under federal law. Gamble moved to dismiss, arguing that the federal indictment was for "the same offence" as the one at issue in his state conviction, thus exposing him to double jeopardy under the Fifth Amendment. The District Court denied this motion, invoking the dual-sovereignty doctrine, according to which two offenses "are *not* the 'same offence'" for double jeopardy purposes if "prosecuted by different sovereigns," *Heath* v. *Alabama*, 474 U. S. 82, 92. Gamble pleaded guilty to the federal offense but appealed on double jeopardy grounds. The Eleventh Circuit affirmed.

Held: This Court declines to overturn the longstanding dual-sovereignty doctrine. Pp. 3–31.

(a) The dual-sovereignty doctrine is not an exception to the double jeopardy right but follows from the Fifth Amendment's text. The Double Jeopardy Clause protects individuals from being "twice put in jeopardy" "for the same offence." As originally understood, an "offence" is defined by a law, and each law is defined by a sovereign. Thus, where there are two sovereigns, there are two laws and two "offences." Gamble attempts to show from the Clause's drafting history that Congress must have intended to bar successive prosecutions regardless of the sovereign bringing the charge. But even if conjectures about subjective goals were allowed to inform this Court's reading of the text, the Government's contrary arguments on that score would prevail. Pp. 3–5.

(b) This Court's cases reflect the sovereign-specific reading of the phrase "same offence." Three antebellum cases—*Fox* v. *Ohio*, 5 How.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

410; *United States* v. *Marigold*, 9 How. 560; and *Moore* v. *Illinois*, 14 How. 13—laid the foundation that a crime against two sovereigns constitutes two offenses because each sovereign has an interest to vindicate. Seventy years later, that foundation was cemented in *United States* v. *Lanza*, 260 U. S. 377, which upheld a federal prosecution that followed one by a State. This Court applied that precedent for decades until 1959, when it refused two requests to reverse course, see *Bartkus* v. *Illinois*, 359 U. S. 121; *Abbate* v. *United States*, 359 U. S. 187, and it has reinforced that precedent over the following six decades, see, *e.g.*, *Puerto Rico* v. *Sanchez Valle*, 579 U. S. ___. Pp. 5–10.

(c) Gamble claims that this Court's precedent contradicts the common-law rights that the Double Jeopardy Clause was originally understood to engraft onto the Constitution, pointing to English and American cases and treatises. A departure from precedent, however, "demands special justification," *Arizona* v. *Rumsey*, 467 U. S. 203, 212, and Gamble's historical evidence is too feeble to break the chain of precedent linking dozens of cases over 170 years. This Court has previously concluded that the probative value of early English decisions on which Gamble relies was "dubious" due to "confused and inadequate reporting." *Bartkus*, 359 U. S., at 128, n. 9. On closer inspection, that assessment has proven accurate; the passing years have not made those early cases any clearer or more valuable. Nor do the treatises cited by Gamble come close to settling the historical question with enough force to meet his particular burden. His position is also not supported by state court cases, which are equivocal at best. Less useful still are the two federal cases cited by Gamble—*Houston* v. *Moore*, 5 Wheat. 1, which squares with the dual-sovereignty doctrine, and *United States* v. *Furlong*, 5 Wheat. 184, which actually supports it. Pp. 11–28.

(d) Gamble's attempts to blunt the force of *stare decisis* here do not succeed. He contends that the recognition of the Double Jeopardy Clause's incorporation against the States washed away any theoretical foundation for the dual-sovereignty rule. But this rule rests on the fact that only same-sovereign prosecutions can involve the "same offence," and that is just as true after incorporation as before. Gamble also argues that the proliferation of federal criminal laws has raised the risk of successive prosecutions under state and federal law for the same criminal conduct, thus compounding the harm inflicted by precedent. But this objection obviously assumes that precedent was erroneous from the start, so it is only as strong as the historical arguments found wanting. In any case, eliminating the dual-sovereignty rule would do little to trim the reach of federal criminal law or prevent many successive state and federal prosecutions for the

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

same criminal conduct, see *Blockburger* v. *United States*, 284 U. S. 299. Pp. 28–31.

694 Fed. Appx. 750, affirmed.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, BREYER, SOTOMAYOR, KAGAN, and KAVANAUGH, JJ., joined. THOMAS, J., filed a concurring opinion. GINSBURG, J., and GORSUCH, J., filed dissenting opinions.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 17–646

TERANCE MARTEZ GAMBLE, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[June 17, 2019]

JUSTICE ALITO delivered the opinion of the Court.

We consider in this case whether to overrule a longstanding interpretation of the Double Jeopardy Clause of the Fifth Amendment. That Clause provides that no person may be "twice put in jeopardy" "for the same offence." Our double jeopardy case law is complex, but at its core, the Clause means that those acquitted or convicted of a particular "offence" cannot be tried a second time for the same "offence." But what does the Clause mean by an "offence"?

We have long held that a crime under one sovereign's laws is not "the same offence" as a crime under the laws of another sovereign. Under this "dual-sovereignty" doctrine, a State may prosecute a defendant under state law even if the Federal Government has prosecuted him for the same conduct under a federal statute.

Or the reverse may happen, as it did here. Terance Gamble, convicted by Alabama for possessing a firearm as a felon, now faces prosecution by the United States under its own felon-in-possession law. Attacking this second prosecution on double jeopardy grounds, Gamble asks us

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

to overrule the dual-sovereignty doctrine. He contends that it departs from the founding-era understanding of the right enshrined by the Double Jeopardy Clause. But the historical evidence assembled by Gamble is feeble; pointing the other way are the Clause's text, other historical evidence, and 170 years of precedent. Today we affirm that precedent, and with it the decision below.

I

In November 2015, a local police officer in Mobile, Alabama, pulled Gamble over for a damaged headlight. Smelling marijuana, the officer searched Gamble's car, where he found a loaded 9-mm handgun. Since Gamble had been convicted of second-degree robbery, his possession of the handgun violated an Alabama law providing that no one convicted of "a crime of violence" "shall own a firearm or have one in his or her possession." Ala. Code §13A–11–72(a) (2015); see §13A–11–70(2) (defining "crime of violence" to include robbery). After Gamble pleaded guilty to this state offense, federal prosecutors indicted him for the same instance of possession under a federal law—one forbidding those convicted of "a crime punishable by imprisonment for a term exceeding one year . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition." 18 U. S. C. §922(g)(1).

Gamble moved to dismiss on one ground: The federal indictment was for "the same offence" as the one at issue in his state conviction and thus exposed him to double jeopardy. But because this Court has long held that two offenses "are *not* the 'same offence'" for double jeopardy purposes if "prosecuted by different sovereigns," *Heath* v. *Alabama*, 474 U. S. 82, 92 (1985), the District Court denied Gamble's motion to dismiss. Gamble then pleaded guilty to the federal offense while preserving his right to challenge the denial of his motion to dismiss on double

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | **sales@docketalarm.com** | **1-866-77-FASTCASE**

fastcase®
Smarter legal research.