

SCOTUS Opinion: Court Retains Dual-Sovereignty Doctrine Exception To Double Jeopardy Rule

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Under the Fifth Amendment, defendants may not be indicted for the same crime twice – otherwise known as double jeopardy. However, the Court had, since *Heath v. Alabama*, 474 U.S. 82 (1985), held that double jeopardy did not occur when the same offense was prosecuted by different sovereigns, thus creating the dual-sovereignty doctrine. In [Gamble v. United States](#), Terance Gamble was first prosecuted by Alabama for possessing a firearm as a felon, and then was indicted for the same offense under federal law. He asked the Court to overrule *Heath* as being inconsistent with the Fifth Amendment as originally understood. But the Court, in a 7-2 decision by Justice Alito, affirmed the doctrine, holding that it was consistent with the Fifth Amendment's original intent, noting early cases where separate sovereigns each were permitted to vindicate their interests, and reasoning that the historical evidence Gamble cited to was too weak to warrant a change in course. Justice Thomas filed a concurrence, admitting that his prior skepticism of the dual-sovereignty doctrine was not confirmed by the historical record, but laying out his view of the role of stare decisis (that may come to be more important in later cases). Justice Ginsburg filed a dissent arguing that the dual-sovereignty doctrine was misguided and not supported by the historical record. Justice Gorsuch also dissented, setting forth an originalist argument against the doctrine. A link to the opinion is [here](#).

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