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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

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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.

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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

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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.