



Double Jeopardy - Contemporary Decisions (Criminal Law Series)

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This casebook contains 130 federal court of appeals decisions that interpret and apply the doctrine of double jeopardy in criminal cases under habeas review. The selection of decisions spans from 2005 through the date of publication and is organized by federal circuit. The decisions appear in the table of contents in the order of frequency of citation.

Generally, the Double Jeopardy Clause of the Fifth Amendment "protects against multiple punishments for the same offense." *Missouri v. Hunter*, 459 U.S. 359, 365 (1983). Courts invoke the so-called Blockburger test to determine whether the multiple punishments component of the Double Jeopardy Clause has been violated, asking whether, when a defendant is convicted under two separate statutes for the same conduct, conviction under the respective statutes "requires proof of a fact which the other does not." *Blockburger v. United States*, 284 U.S. 299, 304 (1932). If each crime does contain an element not contained in the other, the Double Jeopardy Clause is not offended. Blockburger is not a constitutional rule, however: legislatures may "specifically authorize[] cumulative punishment under two statutes, regardless of whether those two statutes proscribe the 'same' conduct under Blockburger," in which case "the trial court or jury may impose cumulative punishment under such statutes in a single trial." *Hunter*, 459 U.S. at 368-69. In other words, the Blockburger test is merely a rule of statutory construction for detecting double jeopardy violations, one that is overcome when "the legislature intended that punishments for violations of the statutes be cumulative." *Id.* at 368. *Evans v. Greg Province*, (10th Cir. 2012)

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