

ORIGINAL

NO. 09-2324

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 92103

STATE OF OHIO,

Plaintiff-Appellant

-vs-

WILLIAM CALHOUN,

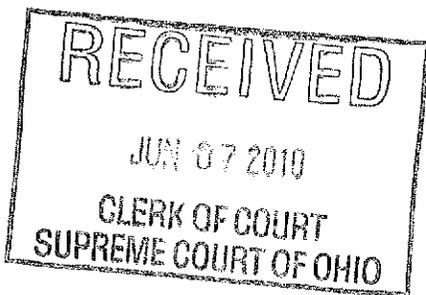
Defendant-Appellee

MERIT BRIEF OF APPELLANT

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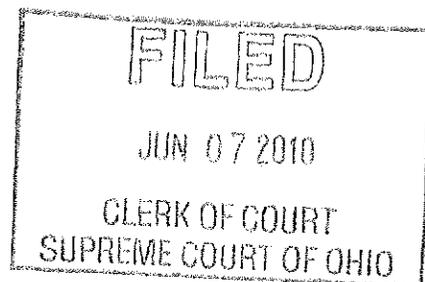


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I. STATEMENT OF THE CASE AND FACTS

Appellee William Calhoun was indicted in this matter in Cuyahoga County Court Common Pleas Case No. CR 490330, for the Attempted Murder and Felonious Assault of Curtis Johnson that occurred on October 29, 2006. Calhoun was further indicted with a charge of Having Weapons Under Disability. After indictment and prior to trial in this matter, Appellee murdered Johnson, being convicted of Aggravated Murder in Cuyahoga County Court of Common Pleas Case No. CR 497811 (the "Murder" case.)

In the Murder case, Appellee was convicted of Aggravated Murder with both mass murder and murder to escape accounting for crime specifications. Appellee was also indicted for numerous other crimes in Case No. CR 497811, to include a charge of the Attempted Murder of Juwaun Leonard with one and three-year firearm specifications, the Felonious Assault of Juwaun Leonard with one and three-year firearm specifications, Retaliation against Curtis Johnson, the murder victim, and counts of Having Weapon Under Disability and Carrying a Concealed Weapon. He was tried and convicted of those charges. See, *State v. Calhoun*, Cuyahoga App. No. 91328, 2009-Ohio-2361.

The mass murder and murder to escape accounting for another crime specifications in his aggravated murder indictment read:

Mass Murder Specification:

The Grand Jurors further find and specify that the offense presented above was part of a course of conduct in which the offender purposely killed Curtis Johnson and purposely attempted to kill Curtis Johnson.

Murder To Escape Accounting For Crime:

The Grand Jurors further find and specify that the offender committed the offense presented above for the purpose of escaping trial for another offense

The Grand Jurors further find and specify that the offender committed the offense presented above for the purpose of escaping trial for another offense committed by him to wit: attempted murder and/or felonious assault and/or having weapons while under disability in CR 490330.

In the Murder case, the court sentenced Appellee, after the merger of certain counts, to serve life in prison without parole eligibility for the Aggravated Murder; 10 years each for Attempted Murder and Felonious Assault, 3 years on the firearm specifications; 5 years each on the Retaliation and Weapon Under Disability charges. In total, Appellee was sentenced to serve an aggregate of 23 years incarceration prior to the start of the life-without-parole sentence.

On September 12, 2008, after his conviction in Case No. CR 497811, Appellee filed a Motion to Dismiss the pending indictment in this case. Appellee argued that he would be placed twice in jeopardy because he was already convicted of aggravated murder with specifications in Case No. CR 497811 and that the specifications, as proven to the jury, constituted convictions for his shooting of Johnson in October 2006. He stated that jeopardy attached to this case because he was sentenced to life in prison on the murder case and that the shooting in October 2006 was the same act or transaction underlying the mass murder specification supporting his aggravated murder conviction.

After hearing, the trial court dismissed the indictment in this case and the State appealed. The judgment of dismissal was affirmed by the Eighth District Court of Appeals in *State v. Calhoun*, Cuyahoga App. No. 92103, 2009-Ohio-6097. Within its opinion, the court determined that in order to prove the mass murder and murder to escape accounting for crime specifications, the State, “had to prove that Calhoun attempted to murder Curtis Johnson, committed felonious assault ‘and/or’ had a weapon under disability as defined in the first indictment.” *Id.*, at ¶15 (Referring to the

indictment in this case.) After noting the facts presented in the Murder case, the appellate court concluded:

[T]he details of Calhoun's attempted murder of Johnson were before the jury in his trial on the aggravated murder charge in the second indictment. Because Calhoun was tried and found guilty of aggravated murder, including the specification relating to his attempted murder of Johnson, jeopardy has attached. Calhoun has been tried, convicted, *and as part of the specification*, punished for the murder of Curtis Johnson.

Id., at ¶8 (Emphasis added.)

The appellate court explained jeopardy attached because, “No defendant may be punished twice for the same offense chosen by the state.” Id., at ¶10. It also found, however, that this case presented an issue of concern *only* because of the timing of the trials, stating:

Calhoun argues, and we agree, that had the state tried Calhoun on the first indictment, no jeopardy would have attached if they had later used that conviction as a specification on the second count. It is the backwards approach to this case that raises jeopardy.

Id.

The appellate court did not adopt the State’s argument that the specifications were not offenses that would subject Appellant to punishment for his October 2006 crimes and thus prohibit prosecution under double jeopardy principles. Id., at ¶11, 12. The appellate court explained:

We recognize that the attempted murder shooting and the later aggravated murder shooting of Curtis Johnson are separate events occurring on separate dates. Our concern, and the trial court rightfully noted, is the dual trials on the same matter and dual punishments for the same act. In the trial, appellant, in order to prove the specification, had to prove the first indictment. Consequently, jeopardy prohibits subsequent trial on a matter previously tried.

Additionally, the trial court has punished Calhoun for the offenses. He was sentenced to life without possibility of parole. Finally, judicial economy supports the trial court's decision to grant Calhoun's motion to dismiss.

Accordingly, we affirm the trial court's decision and overrule appellant's assigned error.

Id., at ¶13, 14.

This Court accepted jurisdiction upon the following proposition of law:

For the purpose of double jeopardy, a finding of guilt upon a specification that defines the level of an offense does not constitute a finding of guilt on the underlying crime.

II. LAW AND ARGUMENT

A. PROPOSITION OF LAW AND SUMMARY OF ARGUMENT

In this appeal, the State asks that this Court adopt its sole proposition of law, which reads:

For the purpose of double jeopardy, a finding of guilt upon a specification that defines the level of an offense does not constitute a finding of guilt on the underlying crime.

Appellee William Calhoun was indicted in this case for shooting Curtis Johnson three times on October 29, 2006. The indictment comprised three distinct counts: Attempted Murder, Felonious Assault, and Having a Weapon Under Disability. Three days before he was to be tried in this case, Appellee murdered Johnson and assaulted others. Appellee was then indicted in Case No. CR 497811.

In the Murder case, the jury found, pursuant to specifications attached to the offense of aggravated murder, that the murder was committed as, “part of a course of conduct in which the offender purposely killed Curtis Johnson and purposely attempted to kill Curtis Johnson,” and was done, “for the purpose of escaping trial for another offense committed by him to wit: attempted murder and/or felonious assault and/or having weapons while under disability in CR 490330.”

In that prosecution, Appellee was not punished for the October 2006 attempted murder; proof of those facts served only to define the manner and motive for which he committed Johnson's murder as detailed in the specification. Moreover, he was never tried upon the weapon under disability count in October 2006.

Double jeopardy is applied to bar prosecution only where the State pursues multiple prosecutions for the same acts. Here, the acts occurring in October 2006 were not charged as offenses that would be separately punishable in the Murder case; rather, the facts of the October 2006 shootings were presented to the jury within specifications to the murder charge. After being found guilty of the murder and specifications, Appellee was not punished for any crime committed in October; rather he was only tried and punished for the murder and other acts occurring in March 2007. The facts of the October 2006 shooting presented at Appellee's murder trial upon the specifications served only to define the level of murder committed; the specifications acted only to define the level of offense and range of punishment for the murder he committed.

The finding of guilt upon the specifications that included facts that occurred in October 2006 is not equivalent to a finding of guilt of the offenses alleged in this indictment. Appellee was not found guilty of Attempted Murder, Felonious Assault, or Having a Weapon Under Disability alleged to occur in October 2006. Appellee was not tried for any of the offenses in this indictment and was not found guilty of, or acquitted of, criminal offenses that occurred in October 2006 within his murder prosecution. He was not punished for acts occurring in October 2006. As such, the State asks that the judgment of the appellate court affirming the judgment of dismissal of this indictment be reversed and that this cause be remanded to the trial court in order that Appellee is held accountable for the indictment in this case.

B. DOUBLE JEOPARDY DOES NOT BAR PROSECUTING APPELLEE FOR THE SHOOTING OF CURTIS JOHNSON IN OCTOBER 2006 WHERE APPELLEE WAS CONVICTED OF MURDERING CURTIS JOHNSON IN MARCH 2007.

1. THE PRINCIPLES OF DOUBLE JEOPARDY ONLY PROHIBIT PROSECUTION FOR THE SAME CRIMINAL OFFENSE

This court has held that the Fifth Amendment bar against double jeopardy prohibits, “(1) a second prosecution for the same offense after acquittal, (2) a second prosecution for the same offense after conviction, and (3) multiple punishments for the same offense.” *State v. Gustafson* (1996), 76 Ohio St.3d 425,432, 668 N.E.2d 435, 441 (Citing, *United States v. Halper* (1989), 490 U.S. 435, 440, 109 S.Ct. 1892, 1897, 104 L.Ed.2d 487, 496, citing in turn, *North Carolina v. Pearce* (1969), 395 U.S. 711, 717, 89 S.Ct. 2072, 2076, 23 L.Ed.2d 656, 644-665.) R.C. §2901.03(B) specifically defines a criminal offense as:

An offense is defined when one or more sections of the Revised Code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

A specification to an indictment is not a separate criminal offense. See, *State v. Blankenship* (1995), 102 Ohio App.3d 534, 547, 657 N.E.2d 559; (Firearm specification is not an offense and thus not subject to double jeopardy prohibitions for the purpose of merger); see, also, *State v. Carter* (May 21, 1999), Lucas App. Nos. L-97-1162, L-97-1163, L-97-1169 (“Firearm specifications, however, are not separate offenses and thus cannot be ‘allied offenses of similar import’ as contemplated by R.C. §2941.25.”)

In seeking dismissal of the indictment, Appellee argued that if this case proceeded to trial he would be tried and punished a second time for the offenses alleged in this case regarding the October 2006 shooting because he was found guilty of the specifications attendant to the charge of aggravated murder. A specification does not

provide both a crime that is defined by statute and a punishment for that act. Double jeopardy only bars a prosecution of the same criminal *offense*. By prosecuting Appellee in this case, the State is not subjecting Appellee to a second prosecution of the same *offense* simply because the State proved facts as part of a specification to the separate crime of Aggravated Murder.

The Murder case did not place Appellee in jeopardy for the October 2006 Attempted Murder, Felonious Assault, or Weapon Under Disability charges in this case. He was not found guilty for those specific criminal offenses, nor was he punished for those offenses. Any punishment he has received has been for the aggravated murder he committed. The specifications on that charge served to delineate the level of the offense and the potential punishment; they did not constitute separate offenses.

In affirming the judgment of the trial court, the appellate court stated that if Appellee had first been tried in this case and convicted of attempted murder, the State would *not* be barred from prosecuting the aggravated murder specifications. 2009-Ohio-6097, at ¶10. In essence, the court determined that double jeopardy bars prosecution of Appellee *solely* because he was convicted of aggravated murder where the mass murder specification was proven first, reasoning that, “It is the backwards approach to this case that raises jeopardy.” *Id.* This cannot be the statement of law of double jeopardy; prosecutions are either duplicitous or thus barred by the principle of double jeopardy or they are not. The order of prosecution is irrelevant to a double jeopardy analysis; either an offender is prosecuted and punished twice for the same criminal offense or he is not.

The appellate court erred in its application of the law because it equated a finding of guilt on a specification to be a finding of guilt on an offense simply because the

specification alleging the facts of this case was determined first. By acknowledging that had this indictment been tried first, there would be no bar under double jeopardy principles, the Appellate court correctly stated the law because the specifications in the Murder case are not offenses; murder is the offense that is being prosecuted. The order of prosecution is irrelevant to the determination of whether or not the same criminal offense is being prosecuted twice.

For this reason, the State asks that the judgment dismissing the indictment in this case be reversed and this matter be remanded to the trial court.

2. APPELLEE WAS NOT PROSECUTED FOR THE CRIMINAL OFFENSES OF ATTEMPTED MURDER, FELONIOUS ASSAULT, AND HAVING A WEAPON UNDER DISABILITY IN THIS CASE

Appellee was convicted of the aggravated murder of Curtis Johnson. In that indictment, he was given notice of and subsequently found guilty of certain specifications detailing the motive and manner by which he committed the aggravated murder. Specifications in an indictment are not criminal offenses; they merely define the penalty that may be imposed if a defendant were to be found guilty of the offense and the specifications charged. It is axiomatic that a defendant cannot be acquitted of a charge but be found guilty of a specification attached to that charge. Accordingly, it is error for a court to equate a finding of guilt on a specification to a finding of guilt upon a criminal charge.

At issue in the analysis in this case is whether or not Appellee would be subject to multiple punishments if tried in this case and convicted for Attempted Murder, Felonious Assault, and Having a Weapon Under Disability for his actions in October 2006. This Court recently addressed the question of what constitutes a criminal conviction in *State v. Whitfield*, 124 Ohio St.3d 319, 922 N.E.2d 182, 2010-Ohio-2, at

¶12, in the context of applying R.C. §2941.25. That statute serves to protect criminal defendants against successive prosecutions and multiple punishments. *Id.*, at ¶18 (Citing, *Ohio v. Johnson* (1984), 467 U.S. 493, 498, 104 S.Ct. 2536, 81 L.Ed.2d 425.) This Court determined that a conviction consists of both a finding of guilt and punishment. *Id.*, at ¶12. Appellee, therefore, was not tried and convicted for the crimes of Attempted Murder, Felonious Assault, and Having Weapon Under Disability occurring on October 29, 2006 as charged in this case, because there is no finding of guilt or punishment imposed for those offenses. He has only been prosecuted and punished for the Aggravated Murder of Curtis Johnson. For this reason, the State asks this Court to reverse the judgment of the appellate court and remand this case to the trial court for further proceedings.

IV. CONCLUSION

Appellee has not been tried or convicted for the Attempted Murder and Felonious Assault of Curtis Johnson occurring in October 2006. He has not been found guilty of any criminal offense for crimes that occurred then, to include the Weapon Under Disability charge. Although the facts underlying this indictment were determined as being true under specifications in the Murder case, Appellee has not been punished for those acts; he has only been punished for aggravated murder.

Appellee was not prosecuted or punished for acts occurring in October 2006. Accordingly, the court erred by applying the principle of double jeopardy and dismissing the criminal charges in this matter based upon the timing of the trials. This case does not constitute successive prosecutions of the same criminal offenses, nor is it one that would subject Appellee to multiple punishments for the same criminal offenses. For these reasons, the State asks that this Court reverse the judgment of the appellate court

and remand this case to the trial court to allow the State to hold Appellee accountable for the crimes he committed in October 2006.

Respectfully submitted,

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CUYAHOGA COUNTY PROSECUTOR

BY:



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CERTIFICATE OF SERVICE

A copy of the foregoing Appellant's Merit Brief has been mailed this the 4th day of June, 2010 to Counsel for the Defendant-Appellee:

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NO. 09-2324

ORIGINAL

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 92103

STATE OF OHIO,
Plaintiff-Appellant

-vs-

WILLIAM CALHOUN,
Defendant-Appellee

NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO

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FILED
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NO.

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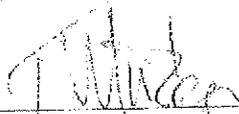
Now comes the State of Ohio and hereby gives Notice of Appeal to the Supreme Court of Ohio from a judgment and final order of the Court of Appeals for Cuyahoga County, Ohio, Eighth Judicial District, journalized December 1, 2009 which affirmed the decision of the trial court.

Said cause did not originate in the Court of Appeals and involves a felony.

Respectfully submitted,

WILLIAM D. MASON
CUYAHOGA COUNTY PROSECUTOR

By:


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SERVICE

A true and accurate copy of the foregoing Memorandum in Support of Jurisdiction has been sent by regular United States Mail this John T. Martin, 310 Lakeside Avenue, 2nd Floor, Cleveland, Ohio 44113 and The Office of the Ohio Public Defender, 8 East Long Street, 11th Floor, Columbus, Ohio 43215


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JOURNAL ENTRY AND OPINION
No. 92103

STATE OF OHIO

PLAINTIFF-APPELLANT

vs.

WILLIAM CALHOUN

DEFENDANT-APPELLEE

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-490330

BEFORE: Blackmon, J., McMonagle, P.J., and Jones, J.

RELEASED: November 19, 2009

JOURNALIZED: DEC X I 2009

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FILED AND JOURNALIZED
PER APP.R. 22(C)

DEC 01 2009

CLERK OF COURT OF APPEALS
BY: *[Signature]*

ANNOUNCEMENT OF COURT DECISION
PER APP.R. 26(A) AND 26(B)
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BY: *[Signature]*

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

NOTICE MAILED TO COUNSEL
FOR ALL PARTIES-COSTS TAXES

PATRICIA ANN BLACKMON, J.:

Appellant state of Ohio (“appellant”) appeals the trial court’s dismissal of an indictment against appellee William Calhoun (“Calhoun”). The appellant assigns the following error for our review:

“I. The trial court erred by dismissing the case because the principles of double jeopardy did not apply. (Sep. 15, 2008 Journal Entry)”

Having reviewed the record and pertinent law, we affirm the trial court’s decision. The apposite facts follow.

It is undisputed that appellant charged Calhoun with attempted murder with a firearm specification, felonious assault with a firearm specification, and having a weapon under disability (referred to as the first indictment, CR-490330). The victim in the first indictment was Curtis Johnson. Before a trial on the attempted murder shooting, Curtis Johnson was shot again and identified Calhoun as the shooter; Johnson later died. Appellant thereafter indicted Calhoun for the aggravated murder of Curtis Johnson, which included mass murder and murder to escape specifications (referred to as the second indictment, CR-497811). Calhoun was also charged with numerous other counts that are not the subject of this appeal.

It is undisputed that Calhoun was tried on the second indictment that contained the following specifications:

“Mass Murder Specification:

The Grand Jurors further find and specify that the offense presented above was part of a course of conduct in which the offender purposely killed Curtis Johnson and purposely attempted to kill Curtis Johnson.

Murder To Escape Accounting For Crime:

The Grand Jurors further find and specify that the offender committed the offense presented above for the purpose of escaping trial for another offense committed by him to wit: attempted murder and/or felonious assault and/or having weapons while under disability in CR 490330.”¹

In order to prove the above specifications in the second indictment, appellant had to prove that Calhoun attempted to murder Curtis Johnson, committed felonious assault “and/or” had a weapon under disability as defined in the first indictment. The jury did convict Calhoun under the second indictment, and the trial judge sentenced him to 23 years in prison, which must be served before he serves a life sentence without parole.

Before appellant could try him on the first indictment, Calhoun filed a motion to dismiss it on double jeopardy grounds. The trial court agreed and pointed out that appellant opted to try the aggravated murder, and as such ruled

¹True Bill Indictment June 26, 2007.

that a trial on the attempted murder would constitute jeopardy. Appellant appealed and argued that jeopardy does not apply.

Motion to Dismiss Indictment

In affirming Calhoun's conviction in his direct appeal, we detailed Calhoun's course of conduct as follows:

"In the case at bar, Curtis Johnson was originally shot by appellant on October 29, 2006. The very next day, the victim scribbled appellant's nickname, 'Booka,' on a piece of paper at the hospital when he was asked who shot him. In addition, the victim was also presented with a photo array that included appellant's picture. After viewing the photo array, the victim identified appellant as the shooter. On November 25, 2006, the victim made a written statement identifying appellant as the shooter.

Appellant was subsequently indicted in Case No. CR-07-490330 and a trial was set for March 21, 2007. Sometime before trial, the victim told various family members that appellant and/or his friends had contacted him and tried to bribe him not to testify at the trial. On March 18, 2007, just three days before trial, Curtis Johnson was ambushed in his driveway and shot a second time by appellant. After he was shot, but before losing consciousness, Curtis Johnson identified appellant as one of the shooters.

The State properly demonstrated that Calhoun engaged in wrongdoing that resulted in the witness's unavailability, and the State further demonstrated that one of Calhoun's reasons for shooting the victim was to cause the witness to be unavailable at trial. This is demonstrated by the attempted bribes, police officer testimony, ballistics tests, witness identifications, and other evidence presented at trial. Accordingly, Calhoun forfeited his right to confront

Curtis Johnson in this case, and the trial court did not err in allowing Curtis Johnson's statements to be admitted as evidence at trial.”²

As reflected above, the details of Calhoun's attempted murder of Johnson were before the jury in his trial on the aggravated murder charge in the second indictment. Because Calhoun was tried and found guilty of aggravated murder, including the specification relating to his attempted murder of Johnson, jeopardy has attached. Calhoun has been tried, convicted, and as part of the specification, punished for the murder of Curtis Johnson.

The Double Jeopardy Clause prohibits the following: a second prosecution for the same offense, a second prosecution for the same offense after conviction, and multiple punishments for the same offense.³ The substance of the Double Jeopardy Clause is to protect a defendant from repeated prosecutions for the same offense.⁴ It is also designed to protect against multiple punishments.

Calhoun argues, and we agree, that had the state tried Calhoun on the first indictment, no jeopardy would have attached if they had later used that conviction as a specification on the second count. It is the backwards approach

²*State v. Calhoun*, Cuyahoga App. No. 91328, 2009-Ohio-2361.

³*North Carolina v. Pearce* (1969), 395 U.S. 711, overruled on other grounds (1982), 457 U.S. 368.

⁴*State v. Gresham*, 2nd Dist. No. 22766, 2009-Ohio-3305, citing *Oregon v. Kennedy* (1982), 456 U.S. 667, 671, 102 S.Ct. 2083, 2087, 72 L.Ed.2d 416.

to this case that raises jeopardy. No defendant may be punished twice for the same offense chosen by the state.

The state argues that to use this approach results in the use of specifications as a separate offense and this is forbidden under *State v. Blankenship*.⁵

Calhoun did not argue allied offenses. He argued that he cannot be tried and punished multiple times for shooting and killing Curtis Johnson. In *State v. Blankenship*, the court held "a firearm specification is not a separate offense and thus cannot be an allied offense of similar import for purposes of R.C. 2941.25. Therefore, no merger is required of the firearm specification and the underlying weapons charge. Consequently, *State v. Blankenship* is not helpful in the resolution of this case.

We recognize that the attempted murder shooting and the later aggravated murder shooting of Curtis Johnson are separate events occurring on separate dates. Our concern, and the trial court rightfully noted, is the dual trials on the same matter and dual punishments for the same act? In the trial, appellant, in order to prove the specification, had to prove the first indictment. Consequently, jeopardy prohibits subsequent trial on a matter previously tried.

⁵(1995), Ohio App.3d 534.

Additionally, the trial court has punished Calhoun for the offenses. He was sentenced to life without possibility of parole. Finally, judicial economy supports the trial court's decision to grant Calhoun's motion to dismiss. Accordingly, we affirm the trial court's decision and overrule appellant's assigned error.

Judgment affirmed.

It is ordered that appellee recover of appellant his costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.


PATRICIA ANN BLACKMON, JUDGE

CHRISTINE T. McMONAGLE, P.J., and
LARRY A. JONES, J., CONCUR

United States Code Annotated Currentness

Constitution of the United States

Annotated

Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Just Compensation for Property (Refs & Annos)

→ **Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Just Compensation for Property**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

<This amendment is further displayed in five separate documents according to subject matter,>

<see USCA Const Amend. V-Capital Crimes>

<see USCA Const Amend. V-Double Jeopardy>

<see USCA Const Amend. V-Self Incrimination>

<see USCA Const Amend. V-Due Process>

<see USCA Const Amend. V-Just Compensation>

Current through P.L. 111-172 (excluding P.L. 111-148, 111-152, and 111-159) approved 5-24-10

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Baldwin's Ohio Revised Code Annotated Currentness

Title XXIX. Crimes--Procedure (Refs & Annos)

Chapter 2901. General Provisions

General Provisions

→ 2901.03 Common law offenses abrogated; offense defined; contempt or sanction powers of courts or general assembly not affected

(A) No conduct constitutes a criminal offense against the state unless it is defined as an offense in the Revised Code.

(B) An offense is defined when one or more sections of the Revised Code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(C) This section does not affect any power of the general assembly under section 8 of Article II, Ohio Constitution, nor does it affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment, or decree.

CREDIT(S)

(1972 H 511, eff. 1-1-74)

Current through 2010 File 32 of the 128th GA (2009-2010), apv. by 5/26/10 and filed with the Secretary of State by 5/26/10.

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Baldwin's Ohio Revised Code Annotated Currentness
Title XXIX. Crimes--Procedure (Refs & Annos)
 ↖ Chapter 2941. Indictment
 ↖ Pleading, Averments, and Allegations
 → 2941.25 Multiple counts

(A) Where the same conduct by defendant can be construed to constitute two or more allied offenses of similar import, the indictment or information may contain counts for all such offenses, but the defendant may be convicted of only one.

(B) Where the defendant's conduct constitutes two or more offenses of dissimilar import, or where his conduct results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.

CREDIT(S)

(1972 H 511, eff. 1-1-74)

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