SUPREME COURT OF THE UNITED STATES

JTISTHEMAN4 *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 25–1. Decided March 14, 2025.

The petition for a writ of certiorari is denied.

JUSTICE SAICHARI, concurring in the denial of certiorari.

Petitioner jtistheman4 was charged with over forty counts of homicide on December 14th, 2024. This Court has previously intervened in this case following a petition regarding a question pertaining to the Sixth Amendment, see *jtistheman4* v. *United States*, 1 U. S. ____ (2024). Charges against Jtistheman4 were initially dismissed sua sponte without prejudice following the resignation of the Chief Judge who was presiding and over a month's delay in prosecution. On February 17, 2025, the United States initiated proceedings to re-open U.S. v. jtistheman4 IV with new evidence of an alleged murder which was being added to the docket. The U.S. District Court proceeded to re-open the case finding there to be probable cause for the initial prosecution, no clear verdict, and a Department of Justice that was unable to proceed with prosecution. Jtistheman4 applied for a writ of certiorari on March 12, 2025, presenting the question of whether a criminal case can proceed and be reopened when the matter has been dismissed on the same charges. Jtistheman4 argues that a criminal case cannot be reopened when the matter has been dismissed with the same charges and that the current prosecution constitutes double jeopardy. I disagree. I find that the District Court's order to re-open *U.S.* v. *Jtistheman4 IV* to be lawful and certainly constitutional, and thus I concur in this Court's denial of certiorari.

SAICHARI, J., concurring

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The Fifth Amendment of the Constitution's Double Jeopardy Clause reads, "nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb. . ." The Double Jeopardy clause exists to protect individuals from being twice tried for the same offense, whether acquitted or previously convicted. It is a common law principle that has existed since the founding of our nation. William Blackstone articulated that protections for double jeopardy were against being "brought into jeopardy of [one's] life, more than once, for the same offence" in *autrefois acquit* and *autrefois convict*. See Blackstone, COMMENTARIES ON THE LAWS OF ENGLAND 329-30 (1769). For the Framers of the Constitution, Blackstone's jurisprudential contributions in English common law directly inspired the Double Jeopardy Clause. The petitioner makes a very broad statement that proceeding with this case would "[allow] for the complete termination of standards . . . that would completely uproot the protections granted and given by the 5th Amendment." I disagree.

We must therefore examine the standards for and protection granted by the Double Jeopardy Clause. There are four standards that have been historically applied to determine double jeopardy. The first two are derived from Blackstone's writings, *autrefois acquit* and *autrefois convict*. As understood in both Blackstone's time and ours, *autrefois acquit* is the plea where an individual who is tried and acquitted of an offense may not be tried for the same offense again, while *autrefois convict* is the plea where an individual who is tried and convicted of an offense may not be tried for the same offense again. The United States adopted these traditional terms for articulating the standard for double jeopardy at the first session of the first congress H. R. Jour., 1st Cong., 1st Sess., 121 (1826 ed.).

The third standard for protection in relation to double jeopardy is protection against multiple punishments for the same offense. The Double Jeopardy Clause does no more than prevent the sentencing court from prescribing greater punishment than the legislature intended see *Missouri* v. *Hunter*, 459 U.S. 365-368 (1983). The fourth standard for double jeopardy is protection for the accused for an offense on the same set of facts in separate proceedings following the principle of collateral estoppel. When an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit, and such rule has been additionally adopted in federal criminal law. See *Ashe* v. *Swenson*, 397 U.S. 436 (1970).

The petitioner does not articulate what protection granted by the Double Jeopardy Clause was violated. This has me scratching my head, as I now must make an assumption on which protection is being violated. The petitioner cites *Benton* v. *Maryland* 395 U.S. 784 (1969) and *Fong Foo* v. *United States*, 369 U.S. 141 (1962) as the authorities pertaining to his protections. Both of these authorities address *autrefois acquit*. In *Benton*, Benton was initially convicted of larceny however successfully appealed the conviction on the grounds that the indicting jury and petit jury were selected unconstitutionally. A conviction is a final judgment, and an appeal on a criminal matter constitutes an acquittal which is also a final judgment. In *Fong Foo*, a formal order of acquittal was entered for the petitioners. I must reason that Jtistheman4 assumes that he was formally acquitted when his charges were dis-missed. This, is erroneous. In no way, shape, or form, did the District Court ever issue a formal order of acquittal. So long as the alleged offense is still within the statute of limitations, which at the time of the initial alleged offense was five months, see FCC § 701 2(b), 3, or now seventy-two days see

Pub. L. 6-05 (where this matter would still fall under the previous statute of limitations because prosecution was initiated prior to the change, where retroactively applying the new statute of limitations would be unconstitutional pursuant to the Ex Post Facto Clause), the matter can continue to be litigated and potentially reprosecuted by the government.

Now, it is worth noting that in this particular case, Jtistheman4, the defendant, sought to dismiss his own charges following consistent procedural error and failure to prosecute by the United States. A dismissal on procedural error, such as in this case, rather than factual innocence is not fatal to reprosecution. See *United States* v. *Scott*, 437 U.S. 82 (1978). The cases cited by the petitioner are not controlling to the facts of the case as a final judgment has yet to be issued. A dismissal without prejudice is not an acquittal, full stop. While I would love to dissect this on a procedural basis as well with how the items have been filed with this Court, this concurrence has gone on for far too long on what is, legally, an elementary matter.