

Criminal Procedure

Double Jeopardy

Blueford v. Arkansas, 566 U.S. ___ (May 24, 2012) (<http://www.supremecourt.gov/opinions/11pdf/10-1320.pdf>). Double jeopardy did not bar retrying the defendant on charges of capital and first-degree murder. Before the jury concluded deliberations, it reported that it was unanimous against guilt on charges of capital murder and first-degree murder but was deadlocked on manslaughter, and had not voted on negligent homicide. The court instructed the jury to continue to deliberate. However, when the jury still could not reach a verdict, the court declared a mistrial. The parties agreed that the defendant could be retried on the manslaughter and negligent homicide charges. The issue presented was whether he could also be retried on charges of capital and first-degree murder. Answering this question in the affirmative, the Court rejected the defendant's argument that by reporting its votes on capital and first-degree murder, the jury acquitted him of those charges. The Court reasoned that the fact that deliberations continued after the report deprives that report of the finality necessary to constitute an acquittal on the murder offenses. The Court also rejected the defendant's argument that even if the jury did not acquit him of capital and first-degree murder, a second trial on those offenses violates the Double Jeopardy Clause, because the trial court's declaration of a mistrial was improper. Specifically, he argued that the trial court should have taken some action, whether through partial verdict forms or other means, to allow the jury to give effect to its votes on the murder charges and then considered a mistrial only as to the remaining charges. The Court rejected this argument, stating: "We have never required a trial court, before declaring a mistrial because of a hung jury, to consider any particular means of breaking the impasse—let alone to consider giving the jury new options for a verdict."