



## Fact Check: Do Federal Charges In The Kate Steinle Case Count As Double Jeopardy?

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In response to an announcement by the Department of Justice (DOJ) that it may bring new charges against the man recently acquitted of murder in the Kate Steinle case, many people on Twitter suggested that new DOJ charges would count as double jeopardy, and therefore be unconstitutional.

### Verdict: False

Double jeopardy, or being tried for the same offense twice, is prohibited by the U.S. Constitution. However, the “dual sovereignty” doctrine allows the federal government to charge a person for an offense that violates federal law, even if the individual was already charged by a state or local government. Additionally, the DOJ could bring charges for different crimes, which would not count as double jeopardy.

A California jury found Jose Ines Garcia Zarate not guilty Thursday on charges of murder, involuntary manslaughter and assault with a deadly weapon in the death of Steinle, but convicted him of being a felon in possession of a firearm.

The Fifth Amendment to the U.S. Constitution protects Zarate from double jeopardy, saying no person shall “be subject for the same offense to be twice put in jeopardy of life or limb.” But the dual sovereignty doctrine allows different government jurisdictions to bring similar charges relating to the same event.

“It’s not double jeopardy to be tried by ‘another sovereign,’” Susan Bloch, a constitutional law professor at Georgetown University, told The Daily Caller News Foundation.

This means that the federal government, a different “sovereign” than the state of California, could bring charges against Zarate without it counting as double jeopardy.

Bloch said “it’s pretty clear” that any DOJ charges brought against Zarate would not be considered double jeopardy.

The DOJ does have guidelines against prosecuting an individual who has already faced a state court system, but there are many exemptions, including disregard for evidence or the law. Furthermore, any DOJ charges against Zarate, an illegal immigrant who had been deported from the U.S. five times before Steinle’s death, could be different than those he faced in California. DOJ spokeswoman Sarah Isgur Flores said on Fox News that new possible charges could relate to felony re-entry, violating supervised release or other issues regarding Zarate’s immigration status. These different charges would not constitute double jeopardy.

The dual sovereignty doctrine has been widely criticized by legal scholars who say it violates the original intent of the Fifth Amendment’s double jeopardy clause.

“The dual-sovereignty exception, by allowing two governments to do together what neither could do alone, undermines the fundamental protection of individual liberty that both the Double Jeopardy Clause and our federalist structure were supposed to provide,” reads an amicus brief from scholars at the Cato Institute and Constitutional Accountability Center.