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Recent Developments: Gillis v. State: Full Faith and Credit Clause Does Not Bar Maryland Prosecution Subsequent to Prior Acquittal in Another State

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Gillis v. State:

**FULL FAITH
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In *Gillis v. State*, 333 Md. 69, 633 A.2d 888 (1993), the Court of Appeals of Maryland held that the Full Faith and Credit Clause of the United States Constitution did not preclude prosecution in Maryland of a defendant who had previously been acquitted in another state. In so holding, the court of appeals determined that an acquittal in one state invokes no constitutional impediment to a subsequent Maryland prosecution for the same crime. Therefore, neither double jeopardy principles nor the Full Faith and Credit Clause will bar such a subsequent proceeding in this state.

The petitioner, Ronald Gillis, was tried for the murder of Byron

Parker in the Superior Court of Kent County, Delaware, and was acquitted of the charge in April, 1990. In November, 1990, the body of Byron Parker was found in Maryland and Gillis was subsequently charged in Maryland with murder. After the petitioner's motion to dismiss the Maryland charge was denied by the trial court, he appealed to the Court of Special Appeals of Maryland. Prior to that court's consideration of the ruling, the court of appeals granted certiorari to decide whether the Maryland prosecution could continue without violating the Full Faith and Credit Clause.

Before addressing the petitioner's full faith and credit challenge, the court of appeals reviewed double jeopardy principles regarding successive prosecutions by different sovereigns for the same crime. *Gillis*, 333 Md. at 73, 633 A.2d at 890. The court emphasized that under the "dual sovereignty" doctrine, separate sovereigns with differing authorities are each permitted to prosecute an individual for the same crime if that individual's conduct violated each sovereign's laws. *Id.* (citing *Abbate v. U.S.*, 359 U.S. 187 (1959); *Bartkus v. Illinois*, 359 U.S. 121 (1959)). The court of appeals pointed out that when a defendant violates the laws of two different sovereigns by a single act, that defendant has committed two distinct offenses. *Gillis*, 333 Md. at 74, 633 A.2d at 890 (citing *Heath v. Alabama*, 474 U.S. 82 (1985)). Therefore, when an individual breaks the laws of two sovereigns, "it cannot be truly averred that the offender has been twice punished for the same offence [sic]; but only that by one act he has committed two offences [sic], for each of which he is justly punishable." *Id.*

The court of appeals further relied upon the decision in *Heath* to emphasize each state's strong interest in enforcing its own laws. *Id.* at 75. The court stated that the mere enforcement of one state's laws will not satisfy the interest of another state in punishing violators of its own laws. *Gillis*, 333 Md. at 75, 633 A.2d at 891. While acknowledging that the Supreme Court in *Heath* did not address the Full Faith and Credit Clause, but rather the dual sovereignty principle, the court of appeals nevertheless viewed the *Heath* rationale as equally applicable to the Petitioner's full faith and credit challenge. *Id.*

Recognizing that the law is well-settled in Maryland regarding the invalidity of a double jeopardy challenge to a Maryland prosecution subsequent to acquittal in another state, the court turned to Petitioner's full faith and credit argument. *Id.* at 76, 633 A.2d at 891. The court began by stating that the purpose of the Full Faith and Credit Clause of the Constitution is "to require a state court to recognize judgments of courts of other states." *Id.* (quoting *Weinberg v. Johns-Manville Sales Corp.*, 299 Md. 225, 234, 473 A.2d 22, 27 (1984)). However, the court stressed that it is unclear whether or not this clause even applies to criminal proceedings. *Id.* at 77, 633 A.2d at 892. While noting that the Supreme Court has never addressed the full faith and credit issue in relation to successive state prosecutions, the court of appeals relied upon *Turley v. Wyrick*, 554 F.2d 840 (8th Cir. 1977), *cert. denied*, 434 U.S. 1033 (1978), a United States Court of Appeals decision, to determine that even if the clause does apply to the case at bar, the murder acquittal in

Delaware has no impact upon a prosecution for murder in Maryland. *Gillis*, 333 Md. at 77-78, 633 A.2d at 892.

In *Turley*, the defendant was acquitted in federal court of a federal bank robbery charge, and subsequently attempted to have the state robbery charge dismissed. *Id.* When the motion was denied, the Eighth Circuit considered the defendant's habeas challenge to the denial of his motion to dismiss and determined that no denial of full faith and credit had occurred. *Id.* at 78, 633 A.2d at 892. The Court of Appeals of Maryland found persuasive the rationale in *Turley* that the federal judgment only acquitted the defendant of violating federal law and did not constitute a determination that state law had not been violated. *Id.*

The court then rejected *Gillis*'s argument that the Delaware judgment established that he did not commit the murder and thus precluded Maryland from relitigating the issue. *Id.* The court reached this conclusion notwithstanding that, under full faith and credit, courts must give the same preclusive effect to another state's judgment "that the judgment would receive in the state from which it emerged." *Id.* (citing *Underwriters Nat'l Assurance Co. v. North Carolina Life & Acc.*, 455 U.S. 691 (1982)). The court reasoned that regardless of that principle, a party who was never afforded the opportunity to be heard on a particular cause of action will not be precluded from ever litigating that issue. *Id.* Because Maryland had not yet been given the opportunity to determine whether *Gillis* violated its criminal laws, the court of appeals determined that the State should not be denied such an opportunity because of a "misplaced

application of the Full Faith and Credit Clause." *Id.* at 79, 633 A.2d at 893.

The court found similarly unpersuasive the Petitioner's reliance on *Farmland Dairies v. Barber*, 65 N.Y.2d 51, 478 N.E.2d 1314 (1985), in which the Court of Appeals of New York held that a condition contained in a New Jersey criminal judgment which stated that the judgment may not be used in any pending or future civil proceeding must be recognized and thus could not be used in a subsequent New York administrative proceeding. *Gillis*, 333 Md. at 80, 633 A.2d at 893. The Court of Appeals of Maryland determined that *Farmland Dairies* was inapplicable to Petitioner's situation, in which the court was being asked to accept Delaware's acquittal of a defendant as a conclusive determination that the Petitioner did not violate any of Maryland's laws, rather than to determine the effect of a condition in a criminal judgment on a later civil proceeding. *Id.*

The court strengthened its determination by referring to previous cases in which it had applied collateral estoppel principles. The court of appeals first recognized that collateral estoppel mandates that when an issue of fact has been determined by a final judgment, that issue cannot be relitigated later by the same parties. *Id.* at 80, 633 A.2d at 893 (citing *Ashe v. Swenson*, 397 U.S. 436 (1970)).

The court then noted that in instances in which it had addressed the impact of collateral estoppel on successive prosecutions of the same defendant by different sovereigns, it had refused to apply such estoppel when different parties were adverse to the defendant. *Id.* at 81, 633 A.2d at 894. The court stressed

that Maryland would similarly not be estopped from prosecuting the Petitioner under its own laws, notwithstanding his full faith and credit challenge. *Id.* In holding that the Maryland prosecution would be allowed to continue, the court stated that "[u]sing the Full Faith and Credit Clause so as to deny [Maryland] its power to enforce its criminal laws because [Delaware] has won the race to the courthouse would be a shocking...deprivation of the historic right and obligation of the States to maintain peace and order" *Id.* at 83, 633 A.2d at 895 (quoting *Heath*, 474 U.S. at 93).

The court of appeals also noted that it was questionable whether Delaware ever actually had subject matter jurisdiction to prosecute the Petitioner for the murder of Byron Parker, whose body was later found in Maryland. *Id.* at 82, 633 A.2d at 894. The court stressed that if one state did not have jurisdiction to render judgment on a defendant, such state's judgment need not be given full faith and credit in a subsequent prosecution in the Maryland courts. *Id.* (citing *Underwriters Nat'l Assurance Co.*, 455 U.S. at 704-05).

In *Gillis v. State*, the Court of Appeals of Maryland determined that the Full Faith and Credit Clause will not bar a subsequent Maryland prosecution following a defendant's prior acquittal of the same crime in another state. This determination bolsters the strength of the "dual sovereignty" principle in Maryland and makes it clear that neither a full faith and credit challenge nor a double jeopardy challenge is likely to be successful in barring successive criminal prosecutions in this state.

- Laura Bearsch