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Law



**ASSIGN
BUSTER**

Concept of Double Jeopardy Concept of Double Jeopardy Dear, It is with deep regret that I have to be the bearer of bad news in the wake of the new testimony brought in the case against Johnson by his brother, the alleged perpetrator of the crime against your family. Under the United States Constitution, Johnson cannot be tried for the same crime twice under the Fifth Amendment, which ascertains that an individual shall not be tried twice for the same crime in the same jurisdiction (Stephens & Scheb, 2008).

This rule falls under the Double Jeopardy Clause that prohibits the law from prosecuting the individual based on the same facts and crime. The clause is there to protect accused persons or alleged perpetrators from abuse in a number of ways, namely; from a second trial for the same offence after prosecution, acquittal, and against multiple punishments (Stephens & Scheb, 2008). In Johnson's case, he was already tried and found innocent of the purported crime.

The clause also dictates that defendants cannot be tried for a lesser crime within the original crime (Stephens & Scheb, 2008). This means that any crime that is seen to be lesser in nature to the original crime, but is merged within the murder, cannot be used to try and convict Johnson in a court of law. Johnson has a right to cite the Double Jeopardy Article in the event you decide to take him to court over the same crime.

I think it may be worthwhile mentioning that there are some instances where the rule may not apply, for instance; if multiple offenses were carried out by Johnson, the clause does not apply to him. He could be tried for the other offenses he committed that may carry the same sentence or conviction as the murder of your family member. Unfortunately, this case may not be used to talk of the defendant's conduct.

There is also a reason why this testimony may not be enough to let Johnson go to court. The court would want to maintain the integrity and finality of all criminal proceedings. If the court were to summarily ignore the unsatisfactory outcomes of your case against Johnson, then its integrity would be called to question. This Clause is considered as one of the oldest concepts, and cannot easily be altered as people have tried over the years (Stephens & Scheb, 2008).

In spite of the testimony provided by Johnson's brother on his deathbed, it may not be sufficient to ask for a retrial of Johnson's case. His Miranda rights did not apply at the time of the confession because it is a belief that anything said at that time is acceptable in court. He can be tried and found guilty of the crime he confessed to prior to his death (Stuart, 2004). This may assist you in finding peace for your family member's murder.

In summary, it is my belief that prosecuting and convicting Johnson's brother may offer your family some peace as he was part of the original crime.

However, this may not be enough to try Johnson with this given crime as he was already tried in a similar case and acquitted. It is with deep regret that I write this letter trying to explain why Johnson cannot be retried for your family member's murder. I hope you find solace with the fact that one of the perpetrators may be found guilty of the same.

Sincerely Yours,

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References

Stephens, O. H., & Scheb, J. M. (2008). American constitutional law, Vol. 1: Sources of power and restraint, (4th ed.). New York: CENGAGE Learning.

Stuart, G. L. (2004). *Miranda: The story of Americas right to remain silent.*
Tucson, Arizona: University of Arizona Press.