

No. 18-8456

IN THE SUPREME COURT OF THE UNITED STATES

ROBERTO MIRAMONTES ROMAN, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

NOEL J. FRANCISCO
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

IN THE SUPREME COURT OF THE UNITED STATES

No. 18-8456

ROBERTO MIRAMONTES ROMAN, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

Petitioner contends (Pet. 13) that the Double Jeopardy Clause barred his prosecution on one count of intentionally killing a local law enforcement officer engaged in the performance of her official duties, in violation of 21 U.S.C. 848, and one count of using, carrying, and discharging a firearm during and in relation to a crime of violence (i.e., the murder), in violation of 18 U.S.C. 924(c)(1)(A), because he had previously been acquitted in Utah state court of aggravated murder based on the same underlying conduct. The court of appeals rejected that contention based on the long-held understanding that the Double Jeopardy Clause does

not prohibit successive prosecutions by separate sovereign governments. Pet. App. A1 n.1, A15-A16; see id. at A17-A19 (rejecting argument in prior interlocutory appeal). This Court granted a writ of certiorari in Gamble v. United States, No. 17-646 (argued Dec. 6, 2018), to consider whether to overturn that understanding and reinterpret the Double Jeopardy Clause. Because the Court's decision in Gamble may affect the proper disposition of the petition for a writ of certiorari, the petition in this case should be held pending the decision in Gamble and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

MAY 2019

* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.