

**Mullin Vs. Wyoming**

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**SooperKanoon Citation :** [sooperkanoon.com/103408](http://sooperkanoon.com/103408)

**Court :** US Supreme Court

**Decided On :** 1973

**Appeal No. :** 414 U.S. 940

**Appellant :** Mullin

**Respondent :** Wyoming

**Judgement :**

MULLIN v. WYOMING - 414 U.S. 940 (1973)

U.S. Supreme Court MULLIN v. WYOMING , 414 U.S. 940 (1973)

414 U.S. 940

Mike MULLIN

v.

State of WYOMING.

No. 72-6906.

Supreme Court of the United States

October 15, 1973

On petition for writ of certiorari to the Supreme Court of Wyoming.

The petition for a writ of certiorari is denied.

Mr. Justice BRENNAN, with whom Mr. Justice DOUGLAS and Mr. Justice MARSHALL concur, dissenting.

Petitioner and three friends observed a case of whiskey being placed into a truck. A short time later petitioner encouraged Richard Anderson, who had not been present to see the case being put into the vehicle, to steal the spirits. Later in the day, Anderson removed the case from the truck and gave eight bottles to one of petitioner's friends, who in turn delivered three bottles to petitioner. Petitioner was arrested and convicted in the

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Justice of the Peace Court for Platte County, Wyoming, of the misdemeanor offense of being a minor in possession of alcoholic beverages. A few months later petitioner was charged and convicted in the District Court of Platte County with feloniously counselling and encouraging Anderson to commit grand larceny. The Supreme Court of Wyoming affirmed, rejecting petitioner's claim that the second prosecution violated his constitutional protection against double jeopardy, *Mullin v. State, Wyo.*, 505 P.2d 305 ( 1973).

Although both the misdemeanor and felony charges arose out of the 'same transaction or occurrence,' they were prosecuted by the State in separate proceedings. That, in my opinion, requires that we grant the petition for certiorari and reverse, for I adhere to the view that the Double Jeopardy Clause of the Fifth Amendment, which is applicable to the States through the Fourteenth Amendment, *Benton v. Maryland*, [395 U.S. 784](#) (1969), requires the prosecution, except in most limited circumstances not present here, 'to join at one trial all the charges against a defendant that grow out of a single criminal act, occurrence, episode or transaction.' *Ashe v. Swenson*, [397 U.S. 436](#) , 453- 454 (1970) (concurring opinion); see *Miller v. Oregon*, [405 U.S. 1047](#) (1972) (dissenting opinion); *Harris v. Washington*, [404 U.S. 55, 57](#) (1971) (concurring opinion); *Waller v. Florida*, [397 U.S. 387, 395](#) (1970) (concurring opinion).