

# United States Court of Appeals for the Fifth Circuit

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No. 24-30668  
CONSOLIDATED WITH  
No. 25-30422

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United States Court of Appeals  
Fifth Circuit

**FILED**

August 25, 2026

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

BLAIR TAYLOR,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:23-CR-184-1

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Before ELROD, *Chief Judge*, and CLEMENT and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

Blair Taylor appeals his conviction, raising for the first time on appeal the claim that his prosecution violated the Double Jeopardy and Due Process Clauses of the Fifth Amendment. He asks us to vacate his conviction on those grounds. As the district court did not plainly err, we AFFIRM the

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\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 24-30668  
c/w No. 25-30422

district court's judgment. He also brings an ineffective assistance of counsel claim. We pretermitt any ruling on this claim.

## I

In 2014, Louisiana charged Blair Taylor with two counts of second-degree murder and five counts of attempted second-degree murder in connection with a shooting in New Orleans. Taylor was tried three times for his conduct pertaining to this shooting. In 2017, he was tried in Louisiana state court, but his conviction was vacated on appeal after the Supreme Court's decision in *Ramos v. Louisiana*, 590 U.S. 83 (2020). In 2022, Taylor was acquitted in his retrial in state court.

The third time was in federal court. Following Taylor's state-court acquittal, the federal government brought two counts of causing a death through the use of a firearm. Inga Petrovich, the Assistant District Attorney who prosecuted Taylor in his 2017 state trial, served on the federal government's prosecution team. Petrovich had become an Assistant U.S. Attorney after Taylor's acquittal in state court. Taylor now appeals his conviction, arguing that Petrovich's involvement in both state and federal trials violated the Double Jeopardy Clause, that his federal prosecution was vindictive and therefore violated the Due Process Clause, and that he received ineffective assistance of counsel.

## II

Taylor did not raise the double jeopardy and due process claims in the district court; therefore, we review his claims only for plain error. *See United States v. Mudekanye*, 646 F.3d 281, 289 (5th Cir. 2011) (citing *United States v. Hernandez-Martinez*, 485 F.3d 270, 272–73 (5th Cir. 2007)). To prevail on plain error review, Taylor must show that: (1) there is an error; (2) the error is clear or obvious; and (3) the error affects his substantial rights. *United States v. Escalante-Reyes*, 689 F.3d 415, 419 (5th Cir. 2012) (*en banc*) (citing

No. 24-30668  
c/w No. 25-30422

*Puckett v. United States*, 556 U.S. 129, 135 (2009)). If the first three prongs are satisfied, we have the discretion to correct the error only if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

Taylor's claims fail under the second prong of plain-error review. An error is considered clear or obvious "only if the error is clear under existing law." *United States v. Salinas*, 480 F.3d 750, 756 (5th Cir. 2007) (citing *United States v. Olano*, 507 U.S. 725, 734 (1993)). Taylor cannot show that the district court deviated from a legal rule that is "clear or obvious, rather than subject to reasonable dispute," as required under the second prong. *See Puckett*, 556 U.S. at 135 (citing *Olano*, 507 U.S. at 734). The second prong of plain error typically requires supporting case law that does not require extending precedent into unsettled areas. *See United States v. Sanches*, 86 F.4th 680, 686 (5th Cir. 2023) (citations omitted). Taylor failed to provide any to support his double jeopardy claim, so his argument fails.

Taylor's due process claim also fails. He did not show that Petrovich acted with vindictiveness in clear violation of his due process rights. Contrary to Taylor's argument, there is a "general rule that successive prosecutions by different sovereigns tend to negate a finding of prosecutorial vindictiveness." *United States v. Johnson*, 91 F.3d 695, 697 (5th Cir. 1996) (citations omitted). Taylor did not present any controlling precedent holding to the contrary in this circumstance. Thus, Taylor fails to establish that the district court plainly erred.

### III

We pretermitt Taylor's ineffective assistance of counsel claim because the record has not been developed for appellate review. The "general rule in this circuit is that a claim of ineffective assistance of counsel cannot be resolved on direct appeal when the claim has not been raised before the

No. 24-30668  
c/w No. 25-30422

district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Gulley*, 526 F.3d 809, 821 (5th Cir. 2008) (quoting *United States v. Higdon*, 832 F.2d 312, 313–14 (5th Cir. 1987)).

We AFFIRM.