Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MONGE *v.* CALIFORNIA

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA

No. 97–6146. Argued April 28, 1998– Decided June 26, 1998

California's "three-strikes" law provides, among other things, that a convicted felon with one prior conviction for a serious felony– such as assault where the felon inflicted great bodily injury or personally used a dangerous or deadly weapon– will have his prison term doubled. Under California law, a number of procedural safeguards surround the assessment of prior conviction allegations: Defendants may invoke the right to a jury trial, the right to confront witnesses, and the privilege against self-incrimination; the prosecution must prove the allegations beyond a reasonable doubt; and the rules of evidence apply. After petitioner was convicted on three counts of violating California drug laws, the State sought to have his sentence enhanced based on a previous assault conviction and the resulting prison term. At the sentencing hearing, the prosecutor asserted that petitioner had personally used a stick during the assault, but introduced into evidence only a prison record showing that he had been convicted of assault with a deadly weapon and had served a prison term for the offense. Finding both sentencing allegations true, the trial court, as relevant here, doubled petitioner's sentence on count one and added a 1-year enhancement for the prior prison term. On appeal, the California Court of Appeal ruled that the evidence was insufficient to trigger the sentence enhancement because the prior conviction allegations were not proved beyond a reasonable doubt, and that a remand for retrial on the sentence enhancement would violate double jeopardy principles. The State Supreme Court reversed the double jeopardy ruling, with a plurality holding that the Double Jeopardy Clause, though applicable in the capital sentencing context, see *Bullington* v. *Missouri*, 451 U. S. 430, does not extend to noncapital sentencing proceedings.

Held: The Double Jeopardy Clause does not preclude retrial on a prior

conviction allegation in noncapital sentencing proceedings. Pp. 5–12.

(a) Historically, this Court has found double jeopardy protections inapplicable to sentencing proceedings because the determinations at issue do not place a defendant in jeopardy for an "offense." Nor can sentencing determinations generally be analogized to an acquittal. See *United States* v. *DiFrancesco*, 449 U. S. 117, 134. In *Bullington*, this Court established a "narrow exception" to the general rule that double jeopardy principles have no application in the sentencing context. There, after a capital defendant received a life sentence from the original sentencing jury and then obtained a new trial, the State announced its intention to seek the death penalty again. This Court imposed a double jeopardy bar, finding that the first jury's deliberations bore the hallmarks of a trial on guilt or innocence because the jury was presented with a choice between two alternatives together with standards to guide their decision, the prosecutor had to establish facts beyond a reasonable doubt, and the evidence was introduced in a separate proceeding that formally resembled a trial. Moreover, the *Bullington* Court reasoned that the embarrassment, expense, ordeal, anxiety, and insecurity that a capital defendant faces are at least equivalent to that faced by any defendant during the guilt phase of a criminal trial. *Bullington*'s rule has since been applied to a capital sentencing scheme in which a judge made the original determination to impose a life sentence. See *Arizona* v. *Rumsey*, 467 U. S. 203, 209–210. Pp. 5–8.

(b) *Bullington*'s rationale does not apply to California's noncapital sentencing proceedings. Even if those proceedings have the hallmarks identified in *Bullington*, a critical component of that case's reasoning was the capital sentencing context. In many respects, a capital trial's penalty phase is a continuation of the trial on guilt or innocence of capital murder. The death penalty is unique in both its severity and its finality, and the qualitative difference between a capital sentence and other penalties calls for a greater degree of reliability when it is imposed. That need for reliability accords with one of the central concerns animating the double jeopardy prohibition: preventing States from making repeated attempts to convict, thereby enhancing the possibility that an innocent person may be found guilty. Moreover, this Court has previously suggested that *Bullington*'s rationale is confined to the unique circumstances of a capital sentencing proceeding, *Caspari* v. *Bohlen*, 510 U. S. 383, 392, and has cited *Bullington* as an example of the heightened procedural protections accorded capital defendants, *Strickland* v. *Washington*, 466 U. S. 668, 686–687. Pp. 8–10.

(c) Petitioner attempts to minimize the relevance of the death penalty context by arguing that the application of double jeopardy prin-

Syllabus

ciples turns on the nature rather than the consequences of the proceeding. *Bullington*'s holding, however, turns on both the trial-like proceedings at issue and the severity of the penalty at stake. In this Court's death penalty jurisprudence, moreover, the nature and the consequences of capital sentencing proceedings are intertwined. States' implementation of trial-like protections in noncapital sentencing proceedings is a matter of legislative grace, not constitutional command, and it does not compel extension of the double jeopardy bar. Pp. 10–12.

16 Cal. 4th 826, 941 P. 2d 1121, affirmed.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and KENNEDY, THOMAS, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion. SCALIA, J., filed a dissenting opinion, in which SOUTER and GINSBURG, JJ., joined.