

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GREGORY BROWN,	§	
	§	No. 317, 2020
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID. No: N1908014450
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: June 16, 2021

Decided: June 24, 2021

Before **SEITZ**, Chief Justice; **VALIHURA**, **VAUGHN**, **TRAYNOR**, and **MONTGOMERY-REEVES**, Justices, constituting the Court *en banc*.

ORDER

This 24th day of June, 2021, after careful consideration of the parties' arguments, briefs, and the record on appeal, it appears to the Court that the judgment of the Superior Court as reflected in its August 20, 2020 Sentence Order and August 31, 2020 Order¹ should be affirmed.

Neither the multiplicity doctrine nor the Double Jeopardy Clauses in the United States and Delaware Constitutions barred the Superior Court's consideration of Brown's convictions of possession of a firearm by a person prohibited (PFBPP)

¹ *State v. Brown*, 2020 WL 5122968 (Del. Super. Ct. Aug. 20, 2020) (written order issued August 31, 2020).

and possession of ammunition by a person prohibited (PABPP), which were based on Gregory Brown's simultaneous possession of a firearm and ammunition, as separate offenses for sentencing purposes. This is so because each of the charges requires proof of a fact which the other does not—for PFBPP, knowing possession of a firearm; for PABPP, knowing possession of ammunition.² We leave for another day the question ostensibly answered, but without analysis or the citation of authority, in *Buchanan v. State*:³ whether 11 *Del. C.* § 1448 contemplates separate PFBPP counts—and separate sentencing upon conviction—for the simultaneous possession of multiple firearms.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is affirmed.

BY THE COURT:

/s/ Gary F. Traynor
Justice

² See *Nance v. State*, 903 A.2d 283, 286 (Del. 2006) (quoting *Blockburger v. United States*, 284 U.S. 294, 304 (1932)).

³ 981 A.2d 1098 (Del. 2009).