

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

DAVID McCANN *and* KIRK
LAUNIUS,

Plaintiffs,

U.

PAMELA BONDI, *U.S. Attorney General, in her official capacity as United States Attorney General,*

Defendant.

Civil Action No. 4:25-cv-01424-Y

**PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO MOTION FOR
SUMMARY JUDGMENT**

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
I. INTRODUCTION	1
II. ARGUMENT	2
A. Courts have discretion to read <i>Mendoza</i> narrowly and apply estoppel in this case.	2
B. The Court should exercise its discretion to apply estoppel in this case.	3
C. Refusing to estop the government within a single district would produce absurd and harmful consequences.	6
D. Even if the Court refuses to apply estoppel to Plaintiffs’ case, Plaintiffs are still entitled to judgment as a matter of law.....	7
III. CONCLUSION.....	8
CERTIFICATE OF SERVICE	10

TABLE OF AUTHORITIES

Cases

<i>Benjamin v. Coughlin</i> , 905 F.2d 571 (2d Cir. 1990)	2
<i>Brown v. Board of Education</i> , 347 U.S. 483 (1954)	7
<i>Celotex Corp. v. Catrett</i> , 477 U.S. 317 (1986)	2, 8
<i>Firearms Policy Coalition v. Bondi</i> , No. 25-11328 (5th Cir. filed Jan. 21, 2026)	8
<i>Firearms Policy Coalition, Inc. v. Bondi</i> , 805 F. Supp. 3d 721 (N.D. Tex. 2025)	1
<i>Hercules Carriers, Inc. v. Florida</i> , 768 F.2d 1558 (11th Cir. 1985)	2
<i>In re Stevenson</i> , 615 Pa. 50 (Pa. 2012)	2
<i>Parklane Hosiery Co. v. Shore</i> , 439 U.S. 322 (1979)	5, 6
<i>State of Idaho Potato Comm’n v. G & T Terminal Packaging</i> , 425 F.3d 708 (9th Cir. 2005)	2
<i>State v. United Cook Inlet Drift Ass’n</i> , 895 P.2d 947 (Alaska 1995)	2
<i>United States v. Mendoza</i> , 464 U.S. 154 (1984)	1, 3, 5
<i>Utah v. EPA</i> , No. 23-1157, 2025 U.S. App. LEXIS 10694 (D.C. Cir. May 2, 2025)	4, 6

Statutes and Regulations

18 U.S.C. § 232.1(1)	1, 7
18 U.S.C. § 930(a)	1, 8
39 C.F.R. § 232.1(1)	1, 7, 8

Other Authorities

<i>Circuit Split</i> , WEX, CORNELL L. SCH., https://www.law.cornell.edu/wex/circuit_split (last visited Mar. 27, 2026)	4
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I. INTRODUCTION

Underlying Plaintiffs’ and Defendant’s discussions of non-mutual collateral estoppel to this case is a simple, practical question: Should the federal government enjoy a court-created rule that allows it to force subsequent litigants—in the same district court—to re-litigate legal questions that have already been answered by that court in previous litigation? The answer carries profound implications, particularly as it impacts the federal government’s ability to avoid appeals and impose significant litigation costs on individuals seeking to secure their statutory and constitutional rights. As shown below, *United States v. Mendoza*, 464 U.S. 154 (1984), does not demand such an outcome, and this Court should apply offensive non-mutual collateral estoppel here.

Plaintiffs argue that 18 U.S.C. § 930(a) and 39 C.F.R. § 232.1(1) are unconstitutional as applied to carrying firearms inside an ordinary post office or on post office property, based on this Court’s prior ruling in *Firearms Policy Coalition, Inc. v. Bondi*, 805 F. Supp. 3d 721 (N.D. Tex. 2025). Defendant fails to establish that the government’s exemption from offensive non-mutual collateral estoppel, established in *Mendoza* applies to rulings by courts in the same district. Plaintiffs have shown that courts have construed *Mendoza* narrowly, and that this Court should do the same in order to apply estoppel in this case. Pls.’ MSJ at 7. Further, Plaintiffs contend that the substantive legal arguments in *Firearms Policy Coalition* still stand, even if this Court decides not to apply estoppel. *Id.*

Whether by estoppel or based on the underlying substantive holding in *Firearms Policy Coalition*, Plaintiffs are entitled to judgment as a matter of law. There is no dispute of material fact, and therefore, summary judgment should be granted in favor of Plaintiffs. *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986).

II. ARGUMENT

Defendant fails to establish that estoppel would be improper here or, specifically, that this Court lacks discretion to read *Mendoza* narrowly, as other courts have previously done. Further, Plaintiffs have not surrendered the underlying substantive legal claims, should the court decline to apply estoppel.

A. Courts have discretion to read *Mendoza* narrowly and apply estoppel in this case.

Defendant argues that *Mendoza* prevents this Court from applying estoppel against the government here, but this case is distinguishable. Ds.' Resp. to MSJ at 4 (" . . . the doctrine of nonmutual collateral estoppel is not available against the government."). Other courts have already determined that *Mendoza* should be construed narrowly, and that estoppel can be applied in circumstances distinct from those in *Mendoza*. See, e.g., *Benjamin v. Coughlin*, 905 F.2d 571, 576 (2d Cir. 1990) (refusing to apply the *Mendoza* exception to local governments); *In re Stevenson*, 615 Pa. 50, 67 n.8 (Pa. 2012) (same); *State v. United Cook Inlet Drift Ass'n*, 895 P.2d 947, 952 (Alaska 1995) (same). But see *State of Idaho Potato Comm'n v. G & T Terminal Packaging*, 425 F.3d 708, 714 (9th Cir. 2005); *Hercules Carriers, Inc. v. Florida*, 768 F.2d 1558, 1578-79 (11th Cir. 1985).

Indeed, several courts have held that it was not intended to universally prevent the application of estoppel against all governmental entities, in all circumstances. *See, e.g., supra*. This is because *Mendoza*'s controlling rationales do not necessarily apply outside of its context. For example, a major justification for the outcome in *Mendoza* was easing the burden on the government to appeal every adverse decision. *Mendoza*, 464 U.S. at 160-61. But that justification does not apply in all circumstances and it does not apply here. Further, the benefit of percolation within a federal circuit or across the nation does not apply in the same way to percolation within the exact same district court, as further discussed below.

Plaintiffs should not need to show that the reasoning underlying *Mendoza* is *completely* at odds with applying the doctrine to the current case, only that meaningful distinctions exist as evidence that *Mendoza* was not intended to apply broadly.

B. The Court should exercise its discretion to apply estoppel in this case.

This Court should apply estoppel to Plaintiffs' claims because the benefits of doing so far outweigh any benefit from neglecting to do so. For example, as Plaintiffs have argued, the benefit of percolation is not realized by applying *Mendoza* to cases in the *same* court—arguments for the percolation of ideas make more sense where cases originate in *different* districts. Pls.' MSJ at 7. Defendant attempts to address Plaintiffs' argument by stating that differences in decisions ultimately filter up to the same circuit court of appeals. Ds.' Resp. to MSJ at 5. However, applying *Mendoza* narrowly still allows for the percolation of analysis between lower courts for appellate

courts to consider, while also allowing for the option of estoppel to promote judicial economy. Moreover, there is opportunity for the percolation of analysis between the circuit courts before decisions are made by the U.S. Supreme Court.

There is a general expectation that a court will not contradict itself, or that the court's reasoning will be consistent, which gives rise to the application of estoppel to non-government litigants. *See Utah v. EPA*, No. 23-1157, 2025 U.S. App. LEXIS 10694, at *56 (D.C. Cir. May 2, 2025) (statement of Rao, J.) (“[a]dherence to the rule of law demands courts exercise discretion in a manner that provides consistent treatment to similarly situated parties and to the government”). This expectation that a court will not contradict itself is observed at the appellate level as well. The very concept of a “circuit split” presumes that one circuit takes one position on a legal issue and another circuit takes another position. *Circuit Split*, WEX, CORNELL L. SCH., https://www.law.cornell.edu/wex/circuit_split (last visited Mar. 27, 2026). The given issue is presumed not to be a contradiction within a single circuit, but between *different* circuits. *Id.* While appellate courts differ in some ways because they create precedential authority, the consensus of circuit courts still demonstrates that promoting percolation at every opportunity is not necessary. And though they do not create precedential authority, trial courts still tend to adhere to consistent rulings to promote institutional comity. *See Utah*, 2025 U.S. App. LEXIS 10694, at *56 (statement of Rao, J.).

Defendant argues that *Mendoza* must also apply to district court cases originating in the same court because lower courts “lack authority to render

precedential decisions binding other judges, even members of the same court.” Ds.’ Resp. to MSJ at 8-9. They argue that allowing estoppel to be applied against the government in cases that arise in the same district court would create this kind of precedential authority. *Id.* (“Yet that kind of precedential authority is what Plaintiffs’ rule would essentially create in cases involving the government. There is no sound reason that a single district judge’s decision should be effectively binding against the government merely because that judge was the first to rule on an issue.”).

This is incorrect for two reasons. First, estoppel already applies to non-government litigants, and courts have not expressed concern that the use of estoppel against non-government litigants has inappropriately introduced precedential authority to lower courts, despite a well-established history of common use in lower courts. *See Mendoza*, 464 U.S. at 162 (exempting the government from the general rule that offensive nonmutual collateral estoppel applies to identical claims); *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979) (applying estoppel to non-government litigants).

Second, reading *Mendoza* narrowly does not mean that a court is *bound* to apply estoppel to identical claims, rather it means that the court has *discretion* to apply estoppel against the government when identical claims arise in the same court. *Parklane Hosiery*, 439 U.S. at 331 (“We have concluded that the preferable approach for dealing with these problems in the federal courts is not to preclude the use of offensive collateral estoppel, but to grant trial courts broad discretion to determine when it should be applied.”). This merely gives lower courts the option of applying

estoppel to identical claims to promote judicial economy rather than force them to relitigate the same claims when they intend to reach the same conclusions. *Id.* at 326 (“Collateral estoppel, like the related doctrine of res judicata, has the dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party or his privy and of promoting judicial economy by preventing needless litigation.”). Therefore, reading *Mendoza* narrowly does not introduce novel or precedential authority to lower courts. Instead, it encourages uniformity, as well as judicial economy where it is arguably most needed—at the trial stage of litigation, where litigants must produce discovery and litigate claims in full.

C. Refusing to estop the government within a single district would produce absurd and harmful consequences.

Practically speaking, Defendant’s position would also produce absurd and harmful results. If the Court held it were unable or unwilling to estop the government in these circumstances, the effect would be to force each and every plaintiff within a district to bring a separate suit, even where the facts, law, and district court are identical to a previous suit. *See id.* Forcing each plaintiff to fend for himself would pose great cost to that plaintiff, to the judiciary, and to the public. *See id.* at 328. Moreover—and perhaps most troublingly—if Defendant’s position prevailed, the government would be incentivized to no longer appeal its losses because it would know it could continue to enforce an unlawful policy against everyone who has not sued... and won. Defendant’s position therefore causes cases to stymie rather than percolate. It also produces inconsistent application of the law among neighbors. *Cf., Utah*, 2025 U.S. App. LEXIS 10694, at *56 (statement of Rao, J.).

Consider what would happen if Defendant's proposed rule of estoppel were applied to a case like *Brown v. Board of Education*, 347 U.S. 483 (1954). Under Defendant's view, each student who wished to challenge the discrimination he or she faced would be forced to sue the exact same school board, for the exact same discrimination, even after the exact same district court had already vindicated the rights of his or her classmate. If the school board won, it could keep discriminating; if it lost, it could refrain from appealing and keep discriminating against all the students who had not brought suit—which is to say, almost everyone else. Here, one Ft. Worth resident could be prevented from bringing his firearm onto postal property, whereas his next-door neighbor would be perfectly permitted to do so on the same property, under the same policy, and under the same presiding court, unless he himself also toiled to bring a lawsuit against the federal government. This is an absurd result that should not stand.

Indeed, the detriments of Defendant's position to public justice and the public cost far outweigh any benefit flowing from "percolation."

D. Even if the Court refuses to apply estoppel to Plaintiffs' case, Plaintiffs are still entitled to judgment as a matter of law.

Even if this Court declines to apply estoppel in this case, Plaintiffs' argument that 18 USC § 232.1(1) and 39 CFR § 232.1(1) are "unconstitutional as-applied to carrying firearms inside an ordinary post office or on post office property," still stand. In that instance, Plaintiffs should be granted summary judgment for the same

reasons as in *Firearms Policy Coalition*, considering the claims are identical and facts are analogous.¹ See *Celotex*, 477 U.S. at 327.

Plaintiffs' substantive argument was made clear by pleading the relevant facts to support the as-applied challenge and pointing to the reasoning of *Firearms Policy Coalition* as persuasive, specifically highlighting this Court's explanation that "both 18 U.S.C. § 930(a) and 39 C.F.R. § 232.1(1) are inconsistent with the principles that underpin this Nation's regulatory tradition. Thus, they are unconstitutional as-applied to carrying firearms inside an ordinary post office or on post office property." Pls.' MSJ at 2-5. As Plaintiffs further argued:

"Here, Plaintiffs stand in the same position as the plaintiffs in *Firearms Policy Coalition, Inc.*—they are denied their right to carry firearms for self-defense on post office property. The same outcome as in *Firearms Policy Coalition, Inc.* is therefore warranted here." *Id.* at 5.

Plaintiffs' substantive claims are established simply because they have already been fully litigated, which is why estoppel should apply. However, if estoppel is not applied, Plaintiffs have clearly appealed *to the reasoning* of a former case with identical claims, which, though concise, clearly supports their substantive claim that the statutes in question violate Plaintiffs' rights.

III. CONCLUSION

This Court should exercise its discretion to construe *Mendoza* narrowly and apply estoppel against the government. Doing so does not presume precedential authority by lower courts, but does promote judicial economy and efficiency when

¹ Plaintiffs are aware of ongoing litigation in *Firearms Policy Coalition v. Bondi*, No. 25-11328 (5th Cir. filed Jan. 21, 2026). Nevertheless, Plaintiffs' claims remain intact and in need of resolution.

necessary and appropriate, and allows individuals to secure their constitutional rights in a court where those rights have already been decided in another case. This case asserts identical claims to a prior ruling from this Court and the government should be estopped to prevent forcing Plaintiffs to relitigate the issue.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2026, I electronically filed the foregoing document with the Clerk of the Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Anelise Powers
ANELISE POWERS