



Written by [Bob Adelman](#) on January 15, 2024

Ruling Against USPS's Gun Ban Has Far-reaching Implications

[The ruling against the United States Postal Service \(USPS\)](#) by U.S. District Court Judge Kathryn Kimball Mizelle last Friday appeared, on the surface, to be just another win for the Second Amendment following the Supreme Court's ruling in *Bruen* last year:

The Supreme Court has been clear: the government must point to historical principles that would permit it to prohibit firearms possession in post offices.

The United States fails to meet that burden. Thus, I dismiss the ... charge because it violates [the plaintiff's] Second Amendment right to keep and bear arms.



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The charge was brought against postal worker Emmanuel Ayala when he wore his fanny pack containing a handgun into the post office where he worked in Tampa, Florida. He was charged under a federal law (18 U.S. Code 930a) that declares that “whoever knowingly possesses ... a firearm ... in a Federal facility ... shall be fined ... or imprisoned not more than 1 year, or both.”

Judge Mizelle thwarted the government's attempt to defend that law, pointing out that “post offices have existed since the founding [of the Republic], as have threats to the safety of postal workers and the public entering those locations. Yet the historical record yields no ‘distinctly similar historical regulation addressing’ those safety problems by regulating firearms in post offices.”

And then she touched on claims by the government that the Supreme Court has ruled that some limitations of the Second Amendment in “sensitive places” may be allowed:

The United States first points to a passage in *Heller* [*District of Columbia v. Heller*], which declared that ... “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms ... or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings....”

She admitted that, if her ruling against the USPS is upheld (for it surely will be challenged), it “presents a unique sensitive-places challenge ... that could have broader implications” elsewhere.

Just how broad? Consider that the USPS either owns outright or leases more than 30,000 buildings across the land, and that those facilities are visited by more than 700 million customers every year, or more than two million every day. Consider that the USPS employs more than half a million workers.



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Consider that, in addition, the General Services Administration (GSA) of the federal government owns another 8,400 buildings, housing another nearly three million federal employees.

Consider the implications: Every facility would be affected by Judge Mizelle's ruling, thus allowing the legal carrying of firearms by both customers and employees in nearly 40,000 buildings and affecting more than three million workers and millions of ordinary Americans. At present these are "gun-free" zones.

And Mizelle's ruling would reverse that.

So she was careful to dissect the claim from *Heller* that government offices are an exception to the general Second Amendment guarantee. She wrote that "a thorough historical inquiry might inform future challenges."

In her 53-page opinion she shredded the idea that the Supreme Court, in *Heller*, ruled that government buildings were, or should be, gun-free zones. She wrote: "There is no historical practice of a near-total prohibition on firearms in ordinary post offices and there is no relevantly similar history analogue supporting such a prohibition."

There is history, she said, and then there is "dicta," or opinion. At law, a dictum is merely "a judge's expression of an opinion on a point other than the precise issue involved in determining a case" (Merriam-Webster). She wrote, "There is neither a holding nor reasoned dicta from the Supreme Court answering whether all government buildings are sensitive places."

Because the quote from *Heller* on which the government was relying was merely an opinion and not an enforceable ruling, she was free to look at history for relevant laws at the time of the founding of the Republic. And since "the United States fails its burden of pointing to a historical tradition of firearms regulation justifying Ayala's indictment," she granted his motion to dismiss.

Watch for the inevitable appeal of [U.S. v. Ayala](#).



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