# United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
**FILED**
November 4, 2026
Thomas B. Plunkett, III
Clerk

No. 25-11237

ALEXIS C. NORMAN, *an individual*,

*Plaintiff—Appellant*,

*versus*

UNITED STATES OF AMERICA,

*Defendant—Appellee*.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CV-997

Before DUNCAN, ENGELHARDT, and RAMIREZ, *Circuit Judges*.

PER CURIAM:[*]

This is the latest in Alexis Norman's string of challenges to her conditions of confinement at FMC Carswell in Fort Worth, Texas. The district court dismissed her present claims as (among other things) *res judicata*, finding that our court previously ruled they were barred under the discretionary function exception to the Federal Tort Claims Act (FTCA). Norman again appeals and we again AFFIRM.

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

I

Norman is a federal inmate at FMC Carswell. Her latest[1] suit, brought under the FTCA and the Eighth Amendment, alleges FMC Carswell has negligently failed to enforce various health and safety regulations. The district court granted the United States' motion to dismiss, holding: (1) Norman's Eighth Amendment claim was barred by sovereign immunity, (2) Norman was attempting to relitigate claims that failed in a prior action, and (3) her claims regarding hiring, supervision, and training of BOP employees were barred by the discretionary function exception to the FTCA. *See* 28 U.S.C. § 2680(a). Norman appeals.

II

We review *de novo* a dismissal for lack of subject matter jurisdiction. *Meyers ex rel. Benzing v. Texas*, 410 F.3d 236, 240 (5th Cir. 2005). We may affirm on any ground supported by the record. *LLEH, Inc. v. Wichita Cnty., Tex.*, 289 F.3d 358, 364 (5th Cir. 2002).

III

In a previous appeal, our court affirmed the dismissal of Norman's claims regarding BOP's alleged failure to prevent the spread of infectious disease at FMC Carswell on the ground that the claims fell within the FTCA's discretionary function exception. *See Norman v. United States*, No.

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[1] *See, e.g., Norman v. Carr*, No. 4:20-CV-747-P, 2020 WL 4777848 (N.D. Tex. July 21, 2020) (denying Norman's habeas corpus petition as improper vehicle for challenging conditions of confinement); *Norman v. Carr*, No. 4:21-CV-630-O, 2022 WL 221227 (N.D. Tex. Jan. 25, 2022) (granting FMC Carswell warden's summary judgment motion because Norman failed to exhaust her administrative remedies); *Norman v. United States*, No. 4:22-CV-1041-O, 2023 WL 9419164 (N.D. Tex. Apr. 6, 2023), *aff'd sub nom. Norman v. Fed. Bureau of Prisons*, No. 23-10478, 2024 WL 277723 (5th Cir. Jan. 25, 2024) (dismissing Norman's conditions of confinement claims under the FTCA because the discretionary function exemption bars claims stemming from the COVID-19 pandemic).

4:22-CV-1041-O, 2023 WL 9419164 (N.D. Tex. Apr. 6, 2023), *aff'd sub nom. Norman v. Fed. Bureau of Prisons*, No. 23-10478, 2024 WL 277723 (5th Cir. Jan. 25, 2024). On appeal, the United States argues that Norman's current claims regarding health and safety regulations at FMC Carswell are barred by *res judicata*. Norman disagrees, arguing that she now challenges only "how the governing/managing staff at CARSWELL manages the facility." We agree with the United States.

Claims are precluded if (1) the parties in this and the prior action are identical or in privity, (2) the prior action resulted in a final judgment on the merits that was (3) delivered by a court with jurisdiction, and (4) the current action brings claims arising from the same "nucleus of operative facts" as the prior action. *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 559, 571 (5th Cir. 2005). Norman's current claims check all four boxes. In this and all of her prior actions, she sued the United States or its officers and agencies. *See, e.g., Norman*, 2023 WL 9419164. Her prior claims were dismissed in a final judgment on the merits by courts with jurisdiction. *See Norman*, 2024 WL 277723 at *3. And her prior complaints, like this one, challenged her conditions of confinement, including complaints that conditions at FMC Carswell have caused the spread of disease. *See, e.g.,* Complaint, *Norman v. United States*, No. 4:22-CV-1041-O (N.D. Tex. Apr. 6, 2023), ECF No. 1.

To the extent that any of these claims raise new factual allegations, those "could have been advanced in support of the cause of action on the occasion of its former adjudication." *Nilsen v. City of Moss Point, Miss.*, 701 F.2d 556, 560 (5th Cir. 1983) (emphasis omitted). Nor can Norman avoid preclusion merely by asserting different legal theories. *See id.* (explaining that "one who has a choice of more than one remedy for a given wrong . . . must advance all at once on pain of bar"). Nor are Norman's claims saved by her conclusory statement that they are not related to the pandemic. Accordingly, we conclude that Norman's FTCA claims are precluded.

Finally, Norman's Eighth Amendment claim fails because the United States has not waived sovereign immunity for constitutional claims under the FTCA. *See F.D.I.C. v. Meyer*, 510 U.S. 471, 478 (1994).

## IV

The district court's judgment is AFFIRMED.