

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

Adam Joyner,

Plaintiff,

v.

Thomas Vilsack, in his official capacity  
as Secretary of the United States  
Department of Agriculture,

Defendant.

Case No. \_\_\_\_\_

**Complaint**

1. On March 11, 2021, the President signed into law the American Rescue Plan Act of 2021. Included as Section 1005 of the Act was the little noticed but consequential program at issue in this case: a debt relief program for farmers that discriminates on the basis of race. Under Section 1005, the Department of Agriculture will provide debt relief to farmers equal to 120% of their outstanding loans—but only if they check the right racial box. This explicit racial preference violates the Fourteenth Amendment’s guarantee of equal treatment.

2. Plaintiff Adam Joyner is a small farmer in West Tennessee with hundreds of thousands of dollars in farm loans that would qualify for the program, if not for his race. He, therefore, brings this action for declaratory and injunctive relief to vindicate his right to the equal protection of the law.

## **PARTIES**

3. Plaintiff, Adam Joyner, is a farmer who lives and works in Gibson County, Tennessee, in the Western District of Tennessee.

4. Defendant Thomas Vilsack is sued in his official capacity as the United States Secretary of Agriculture. The Department of Agriculture (USDA) is headquartered at 1400 Independence Avenue, SW Washington DC 20250.

## **JURISDICTION AND VENUE**

5. This case raises claims under the Fourteenth Amendment of the United States Constitution. The Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1343, and 2201.

6. Venue is appropriate under 28 U.S.C. § 1391(b) because a substantial portion of the events giving rise to the claims occurred in the Western District of Tennessee.

## **FACTUAL ALLEGATIONS**

7. Plaintiff, Adam Joyner, is a farmer in Gibson County, Tennessee, a rural community of approximately 49,000 residents in the western grand division of the state.

8. After several years working the land of others, in 2016, Joyner purchased a farm of his own, totaling 100 acres, approximately 82 of which are tillable. Joyner specializes in growing corn and beans.

9. In order to fulfill his dream of owning his own farm, also in 2016 Joyner availed himself of the United States Department of Agriculture Farm Service Agency's loan program, securing a loan from USDA of \$300,000 dollars, in addition to a smaller amount of financing from a private bank. As of this filing, Joyner still owes approximately \$265,000 on his USDA loan.

10. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 into law. *See* Public Law No. 117-2. The American Rescue Plan Act was an omnibus piece of legislation appropriating \$1.9 trillion for various purposes ostensibly related to the COVID-19 pandemic.

11. Section 1005 of the Act, the "Farm Loan Assistance Program for Socially Disadvantaged Farmers and Ranchers," appropriates money and directs Defendant Vilsack to use that money to "provide a payment in an amount up to 120 percent of the outstanding indebtedness of each socially disadvantaged farmer or rancher as of January 1, 2021" for each farm loan either made directly or guaranteed by USDA.

12. Section 1005(b)(3) defines "socially disadvantaged farmer or rancher" as having "the meaning given the term in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990," which is codified at 7 U.S.C. § 2279(a).

13. 7 U.S.C. § 2279(a)(5) defines "socially disadvantaged farmer or rancher" as "a farmer or rancher who is a member of a socially disadvantaged group."

14. 7 U.S.C. § 2279(a)(6) defines "socially disadvantaged group" as "a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities."

15. The USDA's website for the program explains that under this definition "[e]ligible borrowers include those who identify as one or more of the following: Black/African American, American Indian, Alaskan native, Hispanic/Latino, Asian American, or Pacific Islander." This is consistent with the past practice of USDA in interpreting § 2279(a) programs using this definition to provide benefits only to members of racial and ethnic minorities.

16. The Act does not specify the size of the appropriation, instead appropriating whatever moneys necessary. Estimates suggest the total payouts from the Section 1005 program will equal approximately \$4 billion. The Section 1005 program, therefore, provides that some farmers will have 120% of their indebtedness paid off, based solely on the color of their skin.

17. Section 1005 imposes no requirement that any application show any kind of special need, personal experience of discrimination, evidence that the debt was the result of the COVID-19 pandemic, or anything specific to the applicant other than his or her race—if you're a minority farmer, your debt is paid off; if you're not, you are not entitled to debt relief. In passing the bill, supporters of Section 1005 argued that other recent programs to help farmers went disproportionately to types of crops favored by larger, more well-organized farming interests, and Section 1005 would, therefore, provide help to others:

Black and other minority-group farmers deserve attention, said [Congressman David Scott (D-GA)] and other Democrats, because Trump-era aid programs were directed toward the major crops, such as corn, wheat, soybeans, and cotton, with big operators getting the largest share of the money. Socially disadvantaged farmers tend to have smaller farms and to grow specialty crops, such as fruits and vegetables. Scott

also pointed to the government's admission in court to decades of discriminatory USDA treatment of Black farmers.<sup>1</sup>

18. But the program is not tailored to this justification: if prior assistance programs went disproportionately to certain type of *crops*, Congress could have passed a program that assisted growers of previously neglected crops. If prior programs went disproportionately to larger operations, Congress could have passed a program that assisted smaller producers. Neither of these rationales justifies a response base solely and exclusively on *race*.

19. Joyner has significant farm debt and could benefit from relief.

20. Despite this fact, he does not qualify as a "socially disadvantaged" farmer; therefore, he is excluded from the Section 1005 relief program solely based on his race.

**CAUSE OF ACTION**  
**Defendant's debt relief program**  
**discriminates on the basis of race**  
**in violation of the Fourteenth Amendment**

21. The allegations in the preceding paragraphs are incorporated herein by reference.

22. "When the government distributes burdens or benefits on the basis of individual racial classifications, that action is reviewed under strict scrutiny." *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 719 (2007); *see also Adarand Constructors v. Pena*, 515 U.S. 200, 224 (1995) ("[A]ny

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<sup>1</sup> <https://www.agriculture.com/news/business/multibillion-dollar-debt-relief-for-minority-farmers-is-backed-by-house-committee>

person, of whatever race, has the right to demand that any governmental actor subject to the Constitution justify any racial classification subjecting that person to unequal treatment under the strictest judicial scrutiny”).

23. When the government creates race-based policies, it must only do so “informed by data that suggest intentional discrimination.” *Vitolo v. Guzman*, Nos. 21-5517/5528, slip op. at 9 (6th Cir. May 27, 2021). Broad disparities “are not nearly enough.” *Id.*

24. The fact that there may be a history of social disadvantage for one or more groups does not justify resort to racial classification. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 500-501 (1989) (when a legislative body chooses to employ a suspect classification, it cannot rest upon a generalized assertion as to the classification’s relevance to its goals. A governmental actor cannot render race a legitimate proxy for a particular condition merely by declaring that the condition exists) (citing *McLaughlin v. Florida*, 379 U.S. 184, 190-192 (1964)).

25. Creating new forms of discrimination to remedy old ones is not a solution to past racism. Rather, “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved*, 551 U.S. at 748.

26. Even where a policy is not racially discriminatory on its face, it can still be shown to be discriminatory where in practice it discriminates by race in its application. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977).

27. In implementing the Section 1005 program, Defendant Vilsack is acting under color of law.

28. Plaintiff is a member of a suspect class and is being unlawfully discriminated against on account of his race.

29. Plaintiff is similarly situated in all relevant aspects to other farmers who will receive debt relief under the program.

30. The Section 1005 program includes an invidious racial classification that discriminates against farmers on the basis of race.

31. Defendant has a policy and practice of apportioning the benefits of the Section 1005 program among farmers on account of their race.

32. There is no compelling government interest in Defendant discriminating among farmers on account of their race. *See Faust v. Vilsack*, No. 1:21-cv-00548-WCG (E.D. Wis. June 10, 2021) at \*5 (“Defendants have not established that the loan-forgiveness program targets a specific episode of past or present discrimination.”).

33. The Section 1005 program’s racial classification is not narrowly tailored to serve any government interest. While Defendant may attempt to argue that this program is needed because of prior discrimination by USDA, “the obvious response to a government agency that claims it continues to discriminate against farmers because of their race or national origin is to direct it to stop: it is not to direct it to intentionally discriminate against others on the basis of their race and national origin.” *Id.* at \*6.

34. There is no important government interest in the racial classification contained in the Section 1005 program.

35. The racial classification in the Section 1005 program is not substantially related to any government interest.

### **PRAYER FOR RELIEF**

Plaintiff respectfully requests that this Court:

- a. Declare that Section 1005 of Public Law No. 117-2 unlawfully discriminates on the basis of race;
- b. Enjoin Defendant Vilsack from implementing Section 1005 on the basis of race;
- c. Award Plaintiff his costs and attorney's fees; and
- d. Award Plaintiff any other relief to which he may be entitled.

Dated: June 15, 2021

Respectfully Submitted,

s/ Brian K. Kelsey  
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\*pro hac vice motions to be filed