

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Sid Miller, et al.,

Plaintiffs,

v.

Tom Vilsack, in his official capacity as
Secretary of Agriculture,

Defendant.

Case No. 4:21-cv-00595-O

MOTION FOR SUMMARY JUDGMENT

Plaintiffs Sid Miller, Greg Macha, James Meek, Jeff Peters, and Lorinda O’Shaughnessy, on behalf of themselves and the certified classes that they represent, respectfully move for summary judgment, as there are no genuine issues of material facts and the plaintiffs are entitled to judgment as a matter of law.

SUMMARY

In conformity with Local Rule 56.3(a)(1), the plaintiffs state the elements of each claim on which summary judgment is sought:

Claim: The Department of Agriculture is violating the Constitution by classifying and discriminating on the basis of race in administering section 1005 of the American Rescue Plan Act. The Constitution prohibits the federal government from discriminating on account of race or ethnicity. *See Bolling v. Sharpe*, 347 U.S. 497 (1954). All government-imposed racial classifications are “presumptively invalid”¹ and “inherently suspect,”² and they must be declared unconstitutional unless the

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1. *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 272 (1979).
 2. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 223 (1995) (citation and internal quotation marks omitted).

government proves that a racial classification is “narrowly tailored” and “furthers compelling governmental interests.” *Johnson v. California*, 543 U.S. 499, 505 (2005) (citation and internal quotation marks omitted).

It is undisputed that the defendants are discriminating on account of race in their administration of section 1005 of the American Rescue Plan Act, and there are no genuine issues of material fact with respect to this question. Whether these racial classifications are “narrowly tailored” and “further compelling governmental interests” are questions of law for the Court to resolve.

Respectfully submitted.

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Dated: March 11, 2022

*Counsel for Plaintiffs and
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CERTIFICATE OF SERVICE

I certify that on March 11, 2022, I served this document through CM/ECF

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**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

The plaintiffs' motion for summary judgment is GRANTED. The parties shall confer and submit a proposed final judgment (or competing proposals for final judgment) for this Court within seven (7) days of this order.

Dated: _____, 2021

REED O'CONNOR
UNITED STATES DISTRICT JUDGE