

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

SID MILLER, on behalf of himself and others  
similarly situated, et al.,

*Plaintiffs,*

v.

TOM VILSACK, in his official capacity as  
SECRETARY OF AGRICULTURE,

*Defendant,*

FEDERATION OF SOUTHERN  
COOPERATIVES/LAND ASSISTANCE  
FUND; NATIONAL BLACK FARMERS  
ASSOCIATION (NBFA); and  
ASSOCIATION OF AMERICAN INDIAN  
FARMERS (AAIF),

*Intervenor-Defendants.*

Civil Action No. 4:21-cv-00595-O

**THE NATIONAL BLACK FARMERS ASSOCIATION'S AND  
THE ASSOCIATION OF AMERICAN INDIAN FARMERS'  
MOTION FOR SUMMARY JUDGMENT**

Intervenor-Defendants NBFA and AAIF, by counsel and pursuant to Fed. R. Civ. P. 56 and in conformity with Local Rule 56.3(b), move for summary judgment against all of Plaintiffs' remaining claims, namely that "[t]he 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," Pls.' Mot. Summ. J., ECF No. 169. The elements of that claim are set forth in the accompanying brief, as is the evidence supporting why there is no genuine dispute of material fact that Plaintiffs have failed in their claims. If the Court disagrees, however, Intervenor NBFA and AAIF further seek summary judgment that Plaintiffs' proposed remedy, that the challenged

program should be expanded, is unlawful. *See* Pl.’s Third Am. Compl. ECF No. 135, ¶ 32(d) (Plaintiffs requesting the Court issue an injunction preventing “any racial exclusions”). The elements of that claim are set forth in the accompanying brief, as is the evidence supporting why there is no genuine dispute of material fact that the law cannot be expanded, but must be struck down. Pursuant to Local Rule 56.3 and 56.6, NBFA an AAIF have provided an appendix containing all of the factual materials on which they rely, except that which has already been placed upon the docket—for which they cite the relevant docket entries.

Dated: July 18, 2022

Respectfully submitted,

PUBLIC JUSTICE, P.C.  
/s/ David Muraskin  
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Indian Farmers*

\* Admitted *Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was filed via the court's CM/ECF system on July 18, 2022, which will serve all counsel of record.

Dated: July 18, 2022

Respectfully submitted,

PUBLIC JUSTICE, P.C.

/s/ David Muraskin

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**[PROPOSED] ORDER**

Before the Court is Intervenor-Defendants National Black Farmers Association's ("NBFA") and the Association of American Indian Farmers' ("AAIF") Motion for Summary Judgment, filed July 18, 2022. Having considered the Motion and the supporting brief filed in connection thereto, summary judgment is **GRANTED** for Defendants and Intervenor-Defendants, and Section 1005 of the American Rescue Plan Act is constitutional and can be enforced. 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.

**SO ORDERED** this \_\_\_\_ **day** of \_\_\_\_\_ **2022**.

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Honorable Reed O'Connor  
UNITED STATES DISTRICT JUDGE