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Minority Farmers Urge Court To Uphold Equal Protections

By **Lauren Castle**

Law360 (July 26, 2022, 6:58 PM EDT) -- Farming groups representing women, people of color and Native Americans urged a Texas federal court to keep intact a federal loan relief program for minority farmers, saying they would be harmed if the court ultimately decides the program discriminates against white farmers.

In a **Monday brief** backing U.S. Secretary of Agriculture Tom Vilsack's defense in a lawsuit alleging that Section 1005 of the American Rescue Plan Act is discriminatory, the 25 associations said ruling the act unconstitutional would cause more harm to people of color who historically have experienced racial discrimination by stopping access to debt relief when they were already at a disadvantage before the COVID-19 pandemic.

The associations argued the act doesn't give benefits to a person because of their race, but attempts to remedy the discrimination that resulted because of their race. They claimed the white farmers can't say the act violates the Fourteenth Amendment because, as a group, white farmers have benefited from years of discriminatory laws against people of color.

"Plaintiffs' attempts to use as a sword those constitutional protections designed to remediate discrimination experienced by amici is unconscionable," the associations wrote.

Several white farmers — including Sid Miller, a rancher and Texas' agriculture commissioner — **sued Vilsack** in April 2021, alleging they were illegally left out of receiving financial help when the pandemic hurt people of all backgrounds.

But **Vilsack told** the court earlier this month that the COVID-19 initiative was created to rectify the country's past discrimination against socially disadvantaged groups. The assistance plan grants up to 120% of debt relief of outstanding debt owed to the U.S. Department of Agriculture.

The group of minority farmers argued in their brief the Fourteenth Amendment's equal protection clause can't be used in the white farmers' defense because they are not among those likely to be subject to discrimination, since white farmers "belong to the racial group that has controlled the 'majoritarian political process.'"

"Plaintiffs self-identify as 'white' farmers and ranchers," the group wrote in the brief. "Plaintiffs do not allege membership in a socially disadvantaged group, and instead, identify as members of the racial group that has created and oppressed racial minorities."

The 25 associations who submitted the brief are Rural Coalition; Intertribal Agriculture Council; North Carolina Association of Black Lawyers Land Loss Prevention Project; Rural Advancement Fund of the National Sharecroppers Fund Inc.; National Latino Farmers and Ranchers Trade Association; American Indian Mothers Inc.; Family Farm Defenders; Kansas Black Farmers Association; National Young Farmers Coalition; Oklahoma Black Historical Research Project Inc.; Operation Spring Plant Inc.; Texas Coalition of Rural Landowners; World Farmers Inc.; Farm Aid; HEAL Food Alliance; National Family Farm Coalition; Rural Advancement Foundation International-USA; National Sustainable Agriculture Coalition; California FarmLink; Community Farm Alliance; Women, Food, and Agriculture Network; Steward Holdings; Concerned Citizens of Tillery; Black Farmers and Agriculturalists Association; and Cottage House Inc.

The USDA, and counsel for the plaintiffs and minority farmer associations didn't immediately respond to requests for comment Tuesday.

The plaintiffs are represented by Jonathan F. Mitchell of Mitchell Law PLLC, Charles W. Fillmore and H. Dustin Fillmore III of The Fillmore Law Firm LLP, and Gene P. Hamilton of America First Legal Foundation.

Vilsack is represented by Kyla M. Snow, Alexander V. Sverdlov and Michael F. Knapp of the U.S. Department of Justice.

The group of 25 farmer associations are represented by Arthur J. Brender of The Brender Law Firm and Alexandra Jordan of the Southern Poverty Law Center.

The case is Miller et al. v. Vilsack, case number 4:21-cv-00595, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Caleb Symons. Editing by Lakshna Mehta.

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