UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

SCOTT WYNN, an individual,

Plaintiff,

v. Case No. 3:21-cv-514-MMH-JRK

THOMAS J. VILSACK, in his official capacity as U.S. Secretary of Agriculture and ZACH DUCHENEAUX, in his official capacity as Administrator, Farm Service Agency,

Defendants.

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion for Preliminary Injunction (Doc. 11; Motion) filed May 25, 2021, Defendants Response in Opposition to Plaintiff's Motion for Preliminary Injunction (Doc. 22; Response) filed June 4, 2021, and Plaintiff's Reply in Support of Motion for Preliminary Injunction (Doc. 23; Reply) filed June 9, 2021.[1] On June 16, 2021, the Court held a hearing on the Motion at which the parties argued their respective positions. Accordingly, the Motion is ripe for review.

[1] The Court also considered the brief filed by the National Black Farmers Association (NBFA) and Association of American Indian Farmers (AAIF). (Doc. 25; Amicus Brief).

I. Background

In this action, Plaintiff challenges Section 1005 of the American Rescue Plan Act of 2021 (ARPA), [2] which provides debt relief [3] to "socially disadvantaged farmers and ranchers" (SDFRs). (Doc 1; Complaint). Specifically, Section 1005(a)(2) authorizes the Secretary of Agriculture to pay up to 120% of the indebtedness, as of January 1, 2021, of an SDFR's direct Farm Service Agency (FSA) loans and any farm loan guaranteed by the Secretary (collectively, farm loans). Section 1005 incorporates 7 U.S.C. § 2279's definition of an SDFR as "a farmer of rancher who is a member of a socially disadvantaged group." 7 U.S.C. § 2279(a)(5). A "socially disadvantaged group" is defined 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." 7 U.S.C. § 2279(a)(6). Racial or ethnic groups that categorically qualify as socially disadvantaged are "Black, American Indian/Alaskan Native, Hispanic, Asian, and Pacific Islander." Complaint at ¶ 3; see also U.S. Dep't of Agric., American Rescue Plan Debt Payments, https://www.farmers.gov/americanrescueplan (last visited June 22, 2021). White or Caucasian farmers and ranchers do not.

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[2] Pub. L. No. 117-2, 135 Stat. 4.

[3] At the hearing, counsel for the Government took exception to the Court's use of the term "loan forgiveness," arguing the relief is properly categorized as "debt relief." (Doc. 37; Hearing Transcript at 48). To avoid confusion, the Court will use the term debt relief throughout this Order to refer to the relief provided to SDFRs in Section 1005.

Plaintiff is a White farmer in Jennings, Florida who has qualifying farm loans but is ineligible for debt relief under Section 1005 solely because of his race. Complaint ¶ 9. He sues Thomas J. Vilsack, the current Secretary of Agriculture, and Zach Ducheneaux, the administrator of the United States Department of Agriculture (USDA) and head of the FSA, in their official capacities. Id. ¶¶ 10-11. In his two-count Complaint, Plaintiff alleges Section 1005 violates the equal protection component of the Fifth Amendment's Due Process Clause (Count I) and, by extension, is not in accordance with the law such that its implementation should be prohibited by the Administrative Procedure Act (APA) (Count II). See generally Complaint. Plaintiff seeks (1) a declaratory judgment that Section 1005's provision limiting debt relief to SDFRs violates the law, (2) a preliminary and permanent injunction prohibiting the enforcement of Section 1005, either in whole or in part, (3) nominal damages, and (4) attorneys' fees and costs. Id. at 20-21.

II. Legal Standard

A preliminary injunction is an extraordinary and drastic remedy. See McDonald's Corp. v. Robertson, 147 F.3d 1301, 1306 (11th Cir. 1998); see also Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 24 (2008) ("A preliminary injunction is an extraordinary remedy never awarded as of right."); Davidoff & CIE, S.A. v. PLD Int'l Corp., 263 F.3d 1297, 1300 (11th Cir. 2001). Indeed, "[a] preliminary injunction is a powerful exercise of judicial authority in advance of

trial." Ne. Fla. Chapter of Ass'n of Gen Contractors of Am. v. City of Jacksonville, 896 F.2d 1283, 1284 (11th Cir. 1990). This is particularly true with respect to preliminary injunctions of legislative enactments, which "must be granted reluctantly and only upon a clear showing that the injunction before trial is definitely demanded by the Constitution and by the other strict legal and equitable principles that restrain courts." Id. at 1287. This is because such injunctions "interfere with the democratic process and lack the safeguards against abuse or error that come with a full trial on the merits . . . ." Id.; see also Robinson v. Attorney General, 957 F.3d 1171, 1178-79 (11th Cir. 2020) ("[t]he chief function of a preliminary injunction is to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated." (internal quotations and citation omitted)).

"A plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." Winter, 555 U.S. at 20. The Eleventh Circuit recently described the heavy burden on a party seeking preliminary injunctive relief as follows:

> A district court may grant a preliminary injunction only if the moving party establishes that: (1) [he] has a substantial likelihood of success on the merits; (2) [he] will suffer an irreparable injury unless the injunction is granted; (3) the harm from the threatened injury outweighs the harm the injunction would cause the

> opposing party; and (4) the injunction would not be adverse to the public interest.

Gonzalez v. Governor of Georgia, 978 F.3d 1266, 1270-71 (11th Cir. 2020); see also Siegel v. LePore, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). However, the court also instructed that "the third and fourth factors merge when, as here, the Government is the opposing party." Id. at 1271 (internal quotations and citation omitted).

The movant, at all times, bears the burden of persuasion as to each of these requirements. See Ne. Fla., 896 F.2d at 1285. In deciding whether a party has met its burden, "[a] district court may rely on affidavits and hearsay materials which would not be admissible evidence for a permanent injunction, if the evidence is appropriate given the character and objectives of the injunctive proceeding." Levi Strauss & Co. v. Sunrise Int'l Trading Inc., 51 F.3d 982, 985 (11th Cir. 1995) (internal quotations and citation omitted); see also Cumulus Media, Inc. v. Clear Channel Commc'ns, Inc., 304 F.3d 1167, 1171 (11th Cir. 2002) ("Preliminary injunctions are, by their nature, products of an expedited process often based upon an underdeveloped and incomplete evidentiary record."). Notably, a party's failure to establish any one of the essential elements will warrant denial of the request for preliminary injunctive relief and obviate the need to discuss the remaining elements. See Pittman v. Cole, 267 F.3d 1269, 1292 (11th Cir. 2001) (citing Church v. City of Huntsville,

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