

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

**Sid Miller**, on behalf of himself and  
others similarly situated,

Plaintiff,

v.

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

Defendants.

Case No. 4:21-cv-00595

**PLAINTIFF'S CLASS-ACTION COMPLAINT**

The Supreme Court of the United States said 125 years ago that:

[T]he constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the general government, or by the states, against any citizen because of his race. All citizens are equal before the law. The guaranties of life, liberty, and property are for all persons, within the jurisdiction of the United States, or of any state, without discrimination against any because of their race. Those guaranties, when their violation is properly presented in the regular course of proceedings, must be enforced in the courts, both of the nation and of the state, without reference to considerations based upon race.

*Gibson v. State of Mississippi*, 162 U.S. 565, 591 (1896); *see also Bolling v. Sharpe*, 347 U.S. 497 (1954) (citing *Gibson* and holding that segregation in the District of Columbia public schools violated the Due Process Clause of the Fifth Amendment).

Equal rights under law is the cornerstone of American constitutional jurisprudence: the principle that all citizens, regardless of status, wealth, race, color, religion, or creed, have the same rights and are entitled to the same standard of justice. These are the principles etched into our founding documents, fought for on our nation's

battlefields, written into the Gettysburg Address, and delivered from the steps of the Lincoln Memorial by Martin Luther King.

As a nation, we are devoted to the task of satisfying these sacred ideals and providing equal rights to citizens of all races, as the Constitution requires. Profound progress has been made, and extraordinary milestones reached, throughout our history, serving as an inspiration to humanity and the nations of the world. Yet, today, the Department of Agriculture lurches America dangerously backward, reversing the clock on American progress, and violating our most sacred and revered principles by actively and invidiously discriminating against American citizens solely based upon their race. This is illegal, it is unconstitutional, it is wrong, and it must stop.

Indeed, the United States Department of Agriculture administers numerous statutes that provide government aid to “socially disadvantaged farmers and ranchers.” The Department of Agriculture interprets this phrase to include African Americans, Hispanics, Native Americans, Alaskan natives, Asian-Americans, and Pacific Islanders. But white farmers and ranchers are not included within the definition of “socially disadvantaged farmers and ranchers,” making them ineligible for aid under these federal programs.

These racial exclusions are patently unconstitutional, and the Court should permanently enjoin their enforcement. Doing so will promote equal rights under the law for all American citizens and promote efforts to stop racial discrimination, because “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007) (Roberts, C.J., concurring).

American citizens today represent a beautiful, complex, and increasingly interwoven fabric of racial backgrounds. Government action that tears at that fabric and divides its pieces—rather than reinforcing that fabric’s unifying and binding ties—disrupts our common progress towards becoming a more perfect union.

## JURISDICTION AND VENUE

1. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

2. Venue is proper because a substantial part of the events giving rise to the claims occurred in this judicial district. *See* 28 U.S.C. § 1391(b)(2).

## PARTIES

3. Plaintiff Sid Miller is a farmer and rancher who resides in Erath County, Texas. He also serves as Agriculture Commissioner for the State of Texas. Mr. Miller is suing in his capacity as a private citizen, and not on behalf of the State of Texas or the Texas Department of Agriculture.

4. Defendant Tom Vilsack is the U.S. Secretary of Agriculture. Secretary Vilsack is sued in his official capacity.

## STATEMENT OF FACTS

5. Sections 1005 and 1006 of the American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. (2021), provide aid to farmers and ranchers who have been harmed by the COVID-19 pandemic—including loan forgiveness up to *120 percent* of the value of the loan—but only if they qualify as a “socially disadvantaged farmer or rancher.” *See* Exhibit 1.

6. Numerous other federal statutes limit government aid to individuals who qualify as a “socially disadvantaged farmer or rancher.” *See, e.g.*, 7 U.S.C. § 1936(a) (requiring the Secretary of Agriculture to “guarantee a loan made by a private seller of a farm or ranch to a . . . socially disadvantaged farmer or rancher.”); 7 U.S.C. § 1985(c)(1)(B) (requiring the Secretary of Agriculture to “offer to sell” certain properties to “a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher at current market value based on a current appraisal” before at-

tempting to sell that property at a public sale); 7 U.S.C. § 1627c(d)(5)(C)(i)(II) (requiring the Secretary of Agriculture to give preference to applications submitted by “socially disadvantaged farmers or ranchers” when awarding grants).

7. Federal law defines “socially disadvantaged farmer or rancher” as “a farmer or rancher who is a member of a socially disadvantaged group.” 7 U.S.C. § 2279(a)(5). “Socially disadvantaged group,” in turn, 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).

8. The Department of Agriculture has adopted a general definition of “socially disadvantaged farmer and rancher” as follows:

A socially disadvantaged group is defined as: A farmer or rancher who is a member of one or more of the following groups 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:

- African Americans
- American Indians
- Alaskan Natives
- Asians
- Hispanics
- Pacific Islanders

U.S. Department of Agriculture, *Farming Opportunities Training and Outreach Grant Program*, [https://www.usda.gov/sites/default/files/documents/2501\\_Fact-Sheet.pdf](https://www.usda.gov/sites/default/files/documents/2501_Fact-Sheet.pdf) (last visited on April 26, 2021) (attached as Exhibit 2).<sup>1</sup>

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1. The Department of Agriculture defines the term similarly, with minor variations, in various regulations applicable to USDA programs. *See, e.g.*, 7 C.F.R. § 7.3 (applicable to the selection and functions of Farm Service Agency state and county committees); 7 C.F.R. § 718.2 (applicable to farm marketing quotas, acreage allotments, and production adjustment); 7 C.F.R. § 760.107(b)(1) (applicable to certain Supplemental Agricultural Disaster Assistance Programs); 7 C.F.R. § 636.3 (applicable to the Wildlife Habitat Incentive Program); 7 C.F.R. § 1410.2(b) (applicable to the Conservation Reserve Program); 7 C.F.R. § 1430.402 (applicable to the Dairy Margin Coverage Program).

9. Setting aside the propriety of the use of these classifications for benefits, this definition of “socially disadvantaged farmer and rancher” departs from the plain statutory text by failing to include white ethnic groups that have unquestionably suffered ethnic prejudice.

10. Indeed, throughout American history, many white ethnic groups have been subject to “racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities,” including Irish, Italians, Germans, Jews, and eastern Europeans. Members of these ethnic groups unambiguously qualify as members of a “socially disadvantaged group,” and as “socially disadvantaged farmers or ranchers,” under the plain text of 7 U.S.C. §§ 2279(a)(5)–(6).

11. In addition, neither the statutes nor the Department of Agriculture defines what percentage of “socially disadvantaged” ancestry is necessary to qualify one as a member of a “socially disadvantaged group.” There are many individuals, such as Homer Plessy and Elizabeth Warren, who have been regarded as racial minorities despite having only small traces of minority ancestry.

12. Mr. Plessy, for example, was one-eighth black, yet he was regarded as black by the government of Louisiana and forbidden to sit in a railroad car reserved for white passengers. *See Plessy v. Ferguson*, 163 U.S. 537, 538 (1896). Senator Warren has been recognized as a Native American by Harvard Law School and the American Association of Law Schools,<sup>2</sup> despite the fact that a recent DNA test showed that any

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2. *See* Stephanie Ebbert, *Directories Identified Warren as Minority*, THE BOSTON GLOBE (April 30, 2012), [https://web.archive.org/web/20130903193315/http://www.boston.com/news/local/massachusetts/articles/2012/04/30/elizabeth\\_warren\\_was\\_listed\\_as\\_a\\_minority\\_professor\\_in\\_law\\_directories\\_in\\_the\\_80s\\_and\\_90s](https://web.archive.org/web/20130903193315/http://www.boston.com/news/local/massachusetts/articles/2012/04/30/elizabeth_warren_was_listed_as_a_minority_professor_in_law_directories_in_the_80s_and_90s) (last visited on April 26, 2021) (“Elizabeth Warren . . . was listed as a minority professor in American law school directories for nine years before she landed at Harvard, documents show.”); *id.* (“Elizabeth Warren . . . said Friday she didn’t realize Harvard Law School had been promoting her as a Native American faculty member in the 1990s”).

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