



Written by [R. Cort Kirkwood](#) on January 21, 2022

Legal Blogger Sues Over NY's Anti-White Virus Treatment Policy

New York State's anti-white China Virus treatment policy will soon be no more if Cornell law professor William Jacobsen gets his way.

Jacobsen, founder of the Legal Insurrection blog, [has sued](#) the state in federal court to stop the policy, which prioritizes treatment for blacks and Hispanics. The policy is unconstitutional, Jacobsen argues, and violates the Equal Protection Clause of the federal Constitution.

The problem for New York: Federal courts have already knocked down other anti-white policies related to the "pandemic."



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Whites Need Not Apply

New York's trouble began in December when the state's headmistress of health, Mary Bassett, told white New Yorkers — who pay most of the Empire's State taxes — to sit in the back of the bus behind "non-white" virus patients.

No treatment for them.

"Oral antiviral treatment is authorized for patients who meet all the following criteria," the class-action [lawsuit says](#), quoting the [racist policy verbatim](#):

- Age 12 years and older weighing at least 40 kg (88 pounds) for Paxlovid, or 18 years and older for molnupiravir
- Test positive for SARS-CoV-2 on a nucleic acid amplification test or antigen test; results from an FDA-authorized home-test kit should be validated through video or photo but, if not possible, patient attestation is adequate
- Have mild to moderate COVID-19 symptoms
- Patient cannot be hospitalized due to severe or critical COVID-19
- Able to start treatment within 5 days of symptom onset
- Have a medical condition or other factors that increase their risk for severe illness.
- Non-white race or Hispanic/Latino ethnicity should be considered a risk factor, as longstanding systemic health and social inequities have contributed to an increased risk of severe illness and death from COVID-19.

The policy is racially discriminatory, the lawsuit argues:



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New York's policy creates a racial hierarchy in the distribution of life-saving COVID-19 medication. Non-white and Hispanic/Latino individuals who test positive for COVID-19 automatically qualify for oral antiviral treatments, while an identically situated on-Hispanic/Latino white individual is ineligible unless he demonstrates a "medical condition" or "risk factor" that increases his risk for severe illness from COVID-19.

Violates the 14th

Jacobsen risks contracting the virus, which is [raging across](#) Cornell's main campus despite a 97-percent vaccination rate. So, too, other white Empire Staters. Yet they can't get treated if the state gets its way. Thus, the policy injures him and the other members of the class.

It violates the 14th Amendment because it is openly racially discriminatory, and it "fails any level of constitutional scrutiny," the lawsuit argues:

The policy's racial preferences are not closely or narrowly tailored to achieving that interest. The Department could have effectively pursued the same goals through the obvious race-neutral alternative of requiring all patients to have enumerated medical conditions or risk factors in order to receive antiviral treatments.

The lawsuit also violates the anti-discriminatory provision in the Affordable Care Act, known as ObamaCare.

"Using a patient's skin color or ethnicity as a basis for deciding who should receive lifesaving medical treatment is appalling," the lawsuit avers:

And directing medical professionals to award or deny medical care based on immutable characteristics such as skin color, without regard to the actual health condition of the individual who is seeking these antiviral treatments, is nothing more than an attempt to establish a racial hierarchy in the provision of life-saving medicine. Worse still, New York's racial preferences ignore the obvious race-neutral alternative policy of making antiviral treatments available to patients of any race who can demonstrate risk factors, such as advanced age, obesity, a compromised immune system, or other medical conditions.

America First Legal filed the lawsuit on Jacobsen's behalf. It [warned the state's health department](#) on January 5 that it would challenge the anti-white measure if left in place.

Biden's Anti-White Policy Already Stopped

AFL and Jacobsen might well prevail. In June, a [federal court sided](#) with white farmers who sued the Biden administration over its anti-white loan forgiveness program that was part of the American Rescue Plan Act.

The [courts ruled](#) that Biden trespassed the Constitution when he provided agriculture and [other loan forgiveness](#) to blacks and other minorities on the grounds of "past discrimination."



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