



Written by [Veronika Kyrylenko](#) on June 13, 2021

## Judge Halts Biden's Debt-relief Program for Non-white Farmers and Ranchers

A federal judge in Wisconsin has issued a restraining order freezing the Biden administration's loan-forgiveness program for non-white farmers, pending a ruling on whether basing benefits on skin color is constitutional.

As part of the [American Rescue Plan Act](#), signed in March, President Joe Biden's administration rolled out a loan-forgiveness program ([Section 1005](#)) intended to provide billions of dollars in debt relief to "socially disadvantaged" farmers and ranchers, namely those who are black, Hispanic or Latino, American Indian, Asian American, or Pacific Islander.



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The U.S. Department of Agriculture (USDA) had [announced](#) that it would begin forgiving loans in early June.

*Courthouse News* [reports](#) that the Wisconsin Institute for Law & Liberty, a conservative advocacy group also known as WILL, [sued](#) Biden's Agriculture Secretary Tom Vilsack and Zach Ducheneaux, chief of the Farm Service Agency, in April on behalf of a group of white farmers claiming they are being unlawfully denied a government benefit solely due to the color of their skin.

The number of plaintiffs has grown to a dozen since the complaint was filed, including white farmers and ranchers from Wisconsin, Minnesota, South Dakota, Missouri, Ohio, Iowa, Arkansas, Oregon, and Kentucky, who claim denying them the program's benefits — including payment of up to 120 percent of non-white farmers' debts — violates their constitutional rights.

In the [ruling](#), Judge William Griesbach determined that defendants have not established that the loan-forgiveness program targets a specific episode of past or present discrimination, but only point to "statistical and anecdotal evidence" of a history of discrimination within the agricultural industry.

"But Defendants cannot rely on a 'generalized assertion that there has been past discrimination in an entire industry' to establish a compelling interest [in remedying its own past and present discrimination and in assuring that public dollars drawn from the tax contributions of all citizens do not serve to finance the evil of private prejudice]," writes Griesbach.

Griesbach also notes that the defendants' evidence of more-recent discrimination includes assertions that the vast majority of funding from recent agriculture subsidies and pandemic relief efforts did not reach minority farmers, but no evidence of intentional discrimination by the USDA in the implementation of the recent agriculture subsidies and pandemic relief efforts were presented.

The ruling recommends Congress implement "race-neutral programs to help farmers and ranchers in need of financial assistance," such as requiring individual determinations of disadvantaged status or



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giving priority to loans of farmers and ranchers that were left out of the previous pandemic relief funding. It can also provide better outreach, education, and other resources. "But it cannot discriminate on the basis of race," Griesbach said unequivocally.

The Court concluded that the plaintiffs are likely to succeed on the merits of their claim that the defendants' use of race-based criteria in the administration of the program violates their right to equal protection under the law.

It was also found that the plaintiffs would suffer irreparable harm if the program is not paused. It is argued that though the defendants claim that the program is intended to help socially disadvantaged farmers affected by COVID-19, it does not provide relief based on losses sustained during the pandemic. Instead, the only factor in determining whether a farmer or rancher's loans should be forgiven is the person's race or national origin, which excludes white farmers and ranchers from participation in the program based on their race.

Therefore, "If the Court does not issue an injunction, the USDA will spend the allocated money and forgive the loans of minority farmers while the case is pending and will have no incentive to provide similar relief on an equitable basis to others. Plaintiffs are excluded from the program based on their race and are thus experiencing discrimination at the hands of their government."

If not paused, the program is argued to harm the public interest as well, "as it is 'always in the public interest to prevent the violation of a party's constitutional rights,'" and because the plaintiffs have established a strong likelihood that Section 1005 of the ARPA is unconstitutional, the public interest favors the issuance of a temporary restraining order.

The ruling puts the program on hold while the judge considers the plaintiffs' request for a preliminary injunction declaring the program's race-based classifications unconstitutional.

A USDA spokesperson said in a written statement that the agency disagrees with the judge's decision.

"We respectfully disagree with this temporary order and USDA will continue to forcefully defend our ability to carry out this act of Congress and deliver debt relief to socially disadvantaged borrowers. When the temporary order is lifted, USDA will be prepared to provide the debt relief authorized by Congress," the spokesperson [said](#).

The Wisconsin case is one of [at least five](#) lawsuits filed against the Biden administration to challenge the constitutionality of giving debt relief only to farmers of certain ethnicities.

Late last month, an appellate court [granted](#) a temporary injunction against the Biden administration's \$29 billion relief program for non-white and female restaurant owners. Judge Amul Thapar said that "The stark realities of the Small Business Administration's racial gerrymandering are inescapable," and slammed the "scattershot" manner in which the Biden administration decided which races to prioritize.



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