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NCLA Sues Small Business Administration for Denying PPP Loans to Applicants with Criminal Histories

Carmen’s Corner Store, et al. v. U.S. Small Business Administration, et al.

Washington, DC (June 11, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group filed the [complaint](#), *Carmen’s Corner Store, et al. v. U.S. Small Business Administration, et al.*, today in the U.S. District Court for the District of Maryland. NCLA represents Altimont Mark Wilks, a small business owner from Hagerstown, Md., who was unlawfully barred from applying for PPP loans because he is still on probation. The suit challenges unlawful portions of the agency’s Interim Final Rule that purports to implement the Paycheck Protection Program (“PPP”) under the CARES Act.

Congress tasked SBA with managing the PPP loans—\$659,000,000,000 in total—for businesses with fewer than 500 employees. Under the CARES Act, Mr. Wilks, who owns two such businesses, is fully eligible to receive the loans. However, SBA excluded certain types of businesses from being eligible—including enterprises owned by persons with a criminal history. When Mr. Wilks applied for much-needed federal assistance, SBA’s PPP “Criminal History Rule” unlawfully disqualified him, completely disregarding the intent of Congress to make loans available to *all* small businesses expeditiously during a national crisis.

Mr. Wilks has worked hard to redeem himself and become a contributing member of society with his enterprising spirit. In fact, community leaders throughout Maryland have recognized his successes. Local officials have repeatedly emphasized the positive impact that his business, Carmen’s Corner Store, has had on its low-income neighborhood by providing affordable goods. And his second business, Retail4Real, is a logistics company that trains ex-offenders to become bondable and dependable delivery drivers.

Due to the COVID-19 pandemic, both of Mr. Wilks’s businesses have suffered significant financial losses. SBA’s Criminal History Rule is an arbitrary and capricious exercise of power that exceeds the statutory authority that Congress delegated to the agency. NCLA asks the court to declare SBA’s administrative actions unlawful and ensure that PPP loans are available to all small businesses that meet the criteria *Congress* set.

NCLA released the following statements:

“Excluding Mr. Wilks’s businesses from the PPP loan process during a massive economic crisis is difficult to understand as a matter of policy. But where can someone go to cast a vote against the SBA bureaucrats who abused their power in this case?”

— **Jared McClain, Staff Counsel, NCLA**

“This legislation was passed by Congress to address an economic emergency. We cannot have unelected bureaucrats excluding businesses from the benefits Congress granted. Carmen’s Corner Store is run by a person who has far surmounted his past difficulties. An administrative agency should not be able to block what the representatives of the people have granted.”

— **John J. Vecchione, Senior Litigation Counsel, NCLA**

“Mr. Wilks and his businesses embody the important American values of entrepreneurship and second chances. Small businesses like Carmen’s Corner Store and Retail4Real are the cornerstone of our communities. Congress passed the CARES Act to help entrepreneurs like Mr. Wilks and did not grant SBA bureaucrats the power to arbitrarily prevent him from obtaining this critical financial assistance.”

— **Jessica Thompson, Litigation Counsel, NCLA**

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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