



AATCLC v. HHS (N.D. Cal.)

Topics Covered: Tobacco and Electronic Nicotine Delivery Systems

Issue

The issue in this case is whether the Food and Drug Administration (FDA) must ban menthol flavoring in cigarettes.

AMA Interest

The AMA supports a ban on the use and marketing of menthol in cigarettes as a harmful additive,

Case Summary

The Family Smoking Prevention and Tobacco Control Act, enacted in June 2009, prohibits all cigarette flavoring, except for menthol and tobacco. Also, the Tobacco Control Act authorizes the FDA to prohibit menthol flavoring if such prohibition “is appropriate for the public health.” Multiple studies have shown that menthol flavored cigarettes are as injurious to health as any other cigarettes, and yet the FDA has not banned them. Menthol cigarettes are particularly prevalent among African American teenagers and young adults.

The African American Tobacco Control Leadership Council and Action on Smoking and Health sued the Department of Health and Human Services and the FDA on account of the FDA’s failure to prohibit the sale of menthol-flavored cigarettes. A few months after the suit was filed, the AMA and the National Medical Association joined the case as additional plaintiffs. The government moved to dismiss the case, arguing that the court lacks the authority to force it to take action. The court denied the motion to dismiss, in part, allowing the plaintiffs’ claims to proceed.

On April 29, 2021, the FDA announced that it would promulgate an administrative rule to ban menthol cigarettes. The case is stayed pending the promulgation of the rule.

AMA Involvement

The AMA is a plaintiff in this lawsuit.

Second Amended Complaint