

# Fifth Circuit Rebukes FDA for Banning Ivermectin for Covid-19

By [Jerome R. Corsi](#) Story source: [American Thinker](#)

The U.S. Court of Appeals for the Fifth Circuit issued a unanimous three-judge decision on September 1, 2023, holding that the Federal Drug Administration (FDA) overstepped its statutory authority by attempting to ban using ivermectin to treat COVID-19. In [Apter v. Department of Health and Human Services](#), court concluded, “FDA is not a physician. It has authority to inform, announce, and apprise—but not to endorse, denounce, or advise.”

Writing for the three-judge panel, Circuit Judge Don R. Willett began the court’s opinion by citing the strident nature of the FDA’s opposition to ivermectin as a COVID-19 treatment. Willett opened his opinion as follows:

“You are not a horse.”

Or so the Food and Drug Administration (“FDA”) alerted millions of Americans via social media, midway through the COVID-19 pandemic. The agency had discerned that some people were treating their symptoms using the animal version of a drug called ivermectin. FDA decided to target the practice via the “horse” message—and others like it. The messaging traveled widely across legacy and online media. Left unmentioned in most of that messaging: ivermectin also comes in a human version. And while the human version of ivermectin is not FDA-approved to treat the coronavirus, some people were using it off-label for that purpose.

The case involved three physicians, Robert L. Apter, Mary Talley Bowden, and Paul E. Marik, each of whom jeopardized his or her professional career by prescribing ivermectin for COVID-19 in defiance of the FDA warnings. Apter and Bowden claim to have [treated or consulted more than 9,000 COVID-19 patients](#), with each experiencing a 99 percent survival rate, despite regularly prescribing them ivermectin off-label as a treatment.

Under FDA regulations, any licensed physician may prescribe “off label” any medication the FDA has approved, even if the FDA has not approved the medication for the illness for which the physician is writing the prescription. In 1996, the [FDA approved ivermectin](#) to treat in humans parasitic diseases caused by parasites. For daring to ignore the FDA’s vociferous public relations campaign demonizing the use of ivermectin to treat COVID-19, [the Courthouse News Service reported](#) “a major Houston hospital system forced Talley Bowden to resign her privileges; Apter was referred to physician regulatory boards of Arizona and Washington state for discipline; Marik was forced to resign from his post at Eastern Virginia Medical School, where he was a medical professor and chief of pulmonary and critical care.” Pharmacies across the nation quit filling prescriptions for ivermectin to treat COVID-19 based solely upon the FDA’s stridently broadcast admonitions not to do so.

Marik joined Pierre Kory, M.D., MPA, co-author of the 2023 book [The War on Ivermectin: The Medicine that Saved Millions and Could Have Ended the Pandemic](#), as one of the critical care specialists co-founding the Front Line COVID-19 Critical Care Alliance (FLCCC), the 501(c)3 organization that brought the case to federal court. In federal court, [FLCCC attorneys argued that the FDA’s messaging interfered](#) with their individual “ability to exercise professional medical judgment in practicing medicine.” The doctors also alleged that the FDA’s internet

posts on social media demonizing the use of ivermectin to treat COVID-19 “harmed their reputations.”

The Fifth Circuit’s decision does not mean that the FDA now approves of ivermectin to treat COVID-19. But by ruling that Apter et al. had standing to bring the case, the Fifth Circuit’s admonition that the FDA had overstepped its legislative authorization was loud and clear. The Fifth Circuit reversed the district court’s ruling that FLCCC lacked standing to bring the case against the FDA, remanding the case back to the district court.

Still, the decision could not be more important, given that the World Health Organization (WHO) Director-General Dr. Tedros Adhanom Ghebreyesus is [already warning](#) that there are “concerning trends for COVID-19 ahead of the winter season in the northern hemisphere,” including increased ICU admissions and hospitalization in Europe. [CNN sounded the alarm](#) over a “highly mutated new variant of the virus,” BA.2.86. The newest version is nicknamed “Pirola” and “has more than 30 amino acid changes to its spike protein compared with its next closest ancestor, the BA.2 subvariant of Omicron, according to Dr. Jesse Bloom, who studies viral evolution at the Fred Hutchinson Cancer Center in Seattle.”

In the *War on Ivermectin*, Dr. Kory wrote:

The government has lost my trust—and not just with regard to medicine. Climate change, the war in Ukraine, oil shortages, a banking collapse—whatever the new “narrative” is, I’m inclined to suspect it’s usually and mostly false; willfully constructed not for the common good, but for the good of those who control the institutions of society. It’s so bad that I am now even suspicious of the relentless refrain, “Ninety-eight percent of climate change scientists agree that CO2 is the root cause of global warming.” Do you know why? Because I heard that same “consensus” about ivermectin, HCQ, and the vaccines. It might be true; it may not be. I may have time to “do my own research” someday; I may not. Regardless, they blew it. I will never again believe a word they say without verifying it myself through exhaustive investigation.

[According to SOMO’s research report](#), “Pharma’s Pandemic Profits,” published on February 27, 2023, Pfizer, BioNTech, Moderna, and Sinovac made an extraordinary \$90 billion in profits on their COVID-19 vaccines and medicines in 2021 and 2022. Government National Institutes of Health (NIH) scientists [raked in more than \\$325 million in royalties](#) from Chinese and Russian entities—as well as pharmaceutical companies—for their research on vaccinations. Former National Institutes of Allergy and Infectious Diseases (NIAID) director Dr. Anthony Fauci was [among the thousands of government physicians to be paid royalties](#) from pharmaceutical companies between September 2009 and October 2020.

With this much money to be made off COVID-19, it is no wonder the FDA demonized ivermectin (and hydroxychloroquine), common inexpensive medications that possibly could have ended the COVID-19 pandemic before the NIH began demanding that President Trump lock down the U.S. economy. The question now is whether the American public is being set up for another round of COVID-19 scare so big pharma can continue raking in the billions from COVID-19 booster shots that may or may not work.