

# Trump-appointed judge strikes down Biden student debt relief program

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Two days after a US midterm election that registered massive popular dissatisfaction with both big business parties and the entire political system, a federal judge in Texas struck down the partial student debt relief program President Joe Biden had announced in August.

Biden announced the program, which would provide a maximum of \$20,000 in debt forgiveness and cancel barely a quarter of the crushing \$1.7 trillion in student debt owed by 43 million borrowers, largely to induce students and workers to vote for the Democrats in the elections held on Tuesday.

The program was already on hold, with the government blocked from discharging debt for the 16 million borrowers whose applications had already been approved, as a result of a stay issued October 21 by the Eighth Circuit Court of Appeals, pending a ruling on a legal challenge brought by six Republican-led states.

At that time, the White House stressed that the stay was temporary and that the Education Department would continue to accept applications on its website and process them, while holding off on discharging debt until the case was resolved.

Thursday's ruling, however, goes further. It declares the program unlawful and abolishes it, blocking the government from accepting new applications or processing those it already has.

US Judge Mark Pittman of the Northern Texas District, a Trump appointee, ruled in favor of a suit brought by the Job Creators Network Foundation, a right-wing Republican group, on behalf of two students: one who did not qualify for the full \$20,000 in debt relief and one who was altogether ineligible. They argued that the executive action under which the program was launched was illegal because it did not allow for public comment in advance of its enactment.

The Biden administration has invoked the 2003

Heroes Act, which allows the Department of Education to modify financial assistance programs for students in connection with a national emergency, as the legal basis for cancelling a portion of student debt without congressional legislation, citing the COVID-19 pandemic as the emergency. Under that law, the Education Department is not required to allow public comment.

The Trump administration first invoked the law in March of 2020 to suspend student debt payments during the pandemic. The suspension has since been extended, but is due to end on January 1. Biden had hoped to cancel some of the student debt before borrowers were forced to resume payments, but that now appears highly unlikely.

Judge Pittman seized on the Job Creators Network Foundation complaint to declare the entire program a “complete usurpation” of congressional authority by the executive branch. The Heroes Act, he wrote, “does not provide clear congressional authorization for the program proposed by the Secretary.” Equating the modest—and entirely inadequate—debt forgiveness program with an assertion of dictatorial power, he further stated, “In this country, we are not ruled by an all-powerful executive with a pen and a phone.”

In fact, the suit—one of many being brought by right-wing groups opposed to any government relief for massively indebted students and workers—exemplifies the dictatorial power exercised by the rich and super-rich in the US and all other capitalist countries. The Job Creators Network was created by Bernie Marcus, the founder and former CEO of Home Depot. One of its major financial backers is the billionaire Mercer family.

Marcus, with a net worth of \$5.3 billion, was one of Trump's biggest campaign donors in 2016, giving the would-be dictator's campaign \$7 million. In 2020, he

announced that he was financially backing Trump's reelection bid.

On Thursday, Representative Virginia Foxx of North Carolina, the ranking Republican on the House Education Committee, welcomed the ruling, saying: "This administration continues to operate as if its own self-appointed authority in transferring billions of dollars in student loans is legitimate, but the rule of law says otherwise. This radical scheme must be eviscerated entirely, and Republicans will continue to support legal challenges to achieve that end."

The White House quickly announced that it was filing an appeal. This, however, will go to the Fifth Circuit Court of Appeals, based in New Orleans, which has the reputation as the most conservative of all federal appeals courts. Nineteen of its 25 judges are Republican appointees, including six who were appointed by Trump.

Any further appeal would go to the US Supreme Court, itself dominated by right-wing Republicans, including three appointed by Trump, and at least two—Clarence Thomas and Samuel Alito—who are implicated in the January 6 attempted coup.

Luke Herrine, an assistant professor of law at the University of Alabama, said of Pittman's ruling, "My first response was, this is motivated reasoning by a judge who wants to come to this result. The legal analysis is flawed."

Persis Yu, managing counsel at the Student Borrower Protection Center, pointed to the "disconnect between the harm the plaintiffs alleged—not receiving the debt cancellation they believe they should have had—and the court's remedy: denying cancellation of all federal student loan borrowers... and that's not how the courts should apply the law."

It should be noted that the Biden administration sought to bypass Congress in implementing its partial student debt forgiveness program because it faced opposition not only from the Republicans, but also from a section of Democrats. Democrats who came out against the program during the midterm election campaign included Tim Ryan, congressman from Ohio who lost his bid for a Senate seat to Trump-endorsed J. D. Vance, and Michael Bennet, who was reelected as senator from Colorado.

The *Washington Post*, owned by the multi-billionaire Jeff Bezos, editorialized against the program, calling it

unconstitutional and extravagant. The *Post* also attacked Biden's \$1.2 trillion American Rescue stimulus package as spendthrift and editorialized in favor of harsher austerity. The pro-Democratic *Post* is among the most enthusiastic supporters of massive military spending and an escalation of the war against Russia in Ukraine and confrontation with China.

Biden, in his remarks Wednesday, made clear that this was his agenda going forward, as he appealed for bipartisan unity with his "Republican colleagues" in prosecuting the war in Ukraine and responded to exit polls showing that 75 percent of voters believe the country is going in the wrong direction by saying he would change "nothing."

It has taken less than 48 hours since the election to underscore the fact that nothing remotely progressive can be achieved within the framework of the corrupt and sclerotic capitalist two-party system.



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