



Hey Mr. President, You Can't Rule This Country With 'A Pen and A Phone'

Ingrid Jacques

November 18, 2022

President Joe Biden should take the legal wrangling over his proposed student loan giveaway as a giant note to self: Next time he wants to create a massive new government program, he should take it to Congress first.

It may be inconvenient, but it's what our Constitution requires. Thank goodness.

While the Biden administration remains adamant that its sweeping executive order to forgive up to \$20,000 in student loans for millions of Americans is perfectly legal, the courts aren't buying it. A growing number of lawsuits have taken aim at the overreach.

In the past week, two federal courts have blocked Biden's loan cancellation plan on the grounds that it's unconstitutional and that he doesn't have the authority to unilaterally sign off on a \$400 billion taxpayer-funded "freebie."

Lawsuit shows plan's flaws: Biden's fly-by-the-seat-of-his-pants approach to canceling student loans is creating a huge mess

"I think the likelihood is that this more or less marks the death knell as it were for the administration's attempt to forgive student debt," says Clark Neily, senior vice president for legal studies at the libertarian Cato Institute, which filed a lawsuit of its own against Biden's decree.

'We are not ruled by an all-powerful executive'

One of the more decisive rulings so far came last week from Northern Texas District Court Judge Mark Pittman, who heard a case brought by the Job Creators Network Foundation. He found Biden's executive action to be patently unlawful.

“In this country, we are not ruled by an all-powerful executive with a pen and a phone. Instead, we are ruled by a Constitution that provides for three distinct and independent branches of government,” Pittman wrote.

Biden's plan challenged: First lawsuit is filed challenging costly, unfair student loan forgiveness plan

In his opinion, the judge said the administration’s reliance on the HEROES Act, enacted after 9/11 to help military personnel financially, didn’t pass muster. Biden has claimed that the “national emergency” caused by COVID-19 created the need for broad action. Pittman didn’t buy it.

“In this case, the HEROES Act ... does not provide the executive branch clear congressional authorization to create a \$400 billion student loan forgiveness program," he wrote.

Then this week, a federal appeals court also halted the loan cancellation.

The 8th U.S. Circuit Court of Appeals granted an injunction in a lawsuit brought by six GOP-led states that said they stood to lose out on tax revenue under Biden’s dictate. They also argued that the president had exceeded his authority, and the court agreed.

No longer a 'national emergency'

The Biden administration has appealed both decisions, but it’s doubtful it would get a sympathetic hearing from the higher courts involved, including the U.S. Supreme Court that has already twice shot down Biden’s overreaching pandemic orders.

Does this spell doom for the unlawful program?

I hope so. The administration has finally stopped taking new applications, and it cannot issue any loan cancellation at this time.

I have sympathy for the 26 million borrowers who have applied and thought they’d be seeing this windfall. But it’s important to keep in mind that this broad forgiveness was always going to most benefit wealthier Americans who hold costly graduate degrees.

A recent survey of those seeking loan forgiveness found that 73% said they planned to use the “extra” money for vacations and dining at restaurants.

Biden should never have allowed the application process to start until he was certain the program was on sure footing. Even he has (inadvertently) admitted that Congress should have signed off on the forgiveness. But he faced a time crunch to offer the cancellation ahead of the midterm elections to lure young Democratic voters to the polls.

The president’s excuse that cancellation is necessary because we’re still in a state of national emergency is hanging on the thin thread that he refuses to end the emergency – which he could do at any time. (Remember, he said in September the pandemic was “over.”)

President's reckless whoppers: If pandemic is truly 'over,' Biden should follow through and end national 'emergency'

In fact, this week 62 senators (including 12 Democrats) approved a resolution calling on Biden to end the national emergency. They recognize the continuation for the farce that it is.

Will Biden finally back down?

Don't expect Biden and other White House officials to back down, however. They've already indicated they're looking to extend once again the pause on student loan repayments when that provision expires at the end of the year – a benefit that's been in place since the beginning of the pandemic, and one Biden hasn't had the backbone to end.

The payment freeze – along with zero interest accumulation – has been a benefit to millions of borrowers, but there's little justification for the huge costs associated with the leniency. The pause alone has cost taxpayers more than \$150 billion.

That is reckless on Biden's part, as these measures contribute to the inflation and economic woes facing the country.

It's a shame Biden stooped so low in an effort to pander to voters. What's worse is his disregard for the Constitution.