

WILL: Appeals to the Seventh Circuit on Biden student loan debt forgiveness lawsuit

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The News: On behalf of the Brown County Taxpayers Association (BCTA), the Wisconsin Institute for Law & Liberty (WILL) filed an emergency injunction with the United States Court of Appeals for the Seventh Circuit, arguing that the President cannot spend trillions of taxpayer dollars without authorization from Congress.

WILL Quote: WILL President and General Counsel, Rick Esenberg, said, “The decision ultimately rests upon higher courts. WILL anticipated this outcome, and is well prepared to advance the rule of law to the Court of Appeals—even to the U.S. Supreme Court, if need be. The President must be held accountable for his overreach of power.”

Background: WILL filed a federal [lawsuit](#) against the Biden Administration last week in support of BCTA, challenging the new federal student debt forgiveness program. The “One-Time Student Loan Debt Relief Plan,” announced by President Biden in August of 2022, promises to cancel debts owed to the U.S. Treasury by tens of millions of borrowers, all without authorization of such a program by Congress or federal law. The U.S. Department of Education is expected to begin automatically canceling debts in the coming days, potentially costing U.S. taxpayers more than \$1 trillion.

The lawsuit alleged that the federal student loan forgiveness program violates the constitutional separation of powers, as well as the constitutional guarantee of equal protection under the law, due to official documents outlining the Administration’s race-based motivation. Judge William Griesbach, the United States Judge for the

Eastern District of Wisconsin in Green Bay, dismissed the suit initially on the issue of standing.

The Appeal: WILL's appeal to the U.S. Court of Appeals for the Seventh Circuit insists that the BCTA does have taxpayer standing under Supreme Court precedent. As taxpayers, BCTA argues that the President does not have sole constitutional power to wipe a thirteen-figure sum from the balance sheets. While the Biden Administration, U.S. Department of Education, and Office of Federal Student Aid alleges that this new tuition loan forgiveness program is authorized under the [9/11-era HEROES Act](#), the law was designed to help men and women of the Armed Services "in connection with a war or other military operation or national emergency" (20 U.S.C. § 1098bb(b)(1)). The President is abusing this law, claiming all Americans are in a state of emergency because of COVID-19, even though he [recently declared](#) that the pandemic was over. As confirmed by the two preceding administrations, the HEROES Act does not allow the President to unilaterally forgive student loans—a power belonging to Congress. The appeal also argues that the Constitution forbids racially motivated spending unless the requirements of strict scrutiny are met.

Ultimately, the appeal seeks to issue an injunction to prohibit the Defendants from implementing their plan of forgiving and/or canceling federal student loan debt. Given the short time frame, WILL and BCTA request that this emergency appeal be considered, and that a decision be rendered quickly, to allow the U.S. Supreme Court to review the lawsuit if necessary.

The lawsuit is part of a national initiative launched by WILL, the [Equality Under the Law Project](#), which fights to protect against racial discrimination and violations of constitutional liberties.

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