Supreme Court Denies Appeal to Dismiss Student Loan Debt in Bankruptcy Proceedings

January 12, 2016 â€“ Weâ€™ve been telling our readers for years that declaring bankruptcy wonâ€™t eliminate or reduce stude loan debt. This week, the Supreme Court affirmed that. The justices declined to hear a case that asked them to dismiss more than a quarter of a million dollars of student loan debt through a bankruptcy proceeding.

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Mark Tetzlaff, a 57 year old unemployed resident of Wisconsin, had taken out $260,000 in student loans. Tetzlaff spent the money to obtain degrees in business and law (but he was unable to pass the state bar exam). Now he is claiming that a criminal record, alcoholism and depression have prevented him from getting a job and that the court should simply absolve him of his debt.

But student loan debt is different from other debts. The vast majority of student loans are made directly from the federal government to students and their parents. That means that these loans are almost always made with money from taxpayers.

When congress established student loans, they recognized that any defaults on student loan debt could only be repaid by raising taxes. So congress specifically forbid bankruptcy courts from dismissing student loan debt in bankruptcy proceedings in most cases.

While many consumer advocacy organizations argue that bankruptcy courts should be able to reduce or dismiss student loan debt, there is actually no reason for them to be able to do so. Federal student loans provide a wide variety of repayment plans. Borrowers can elect to repay their loans based on their income. In the event of unemployment, borrowers can defer repayment until they are able to find a job. Based on these two options alone, there is almost no reason for anyone to default on their student loans.

But default they do. There are currently $1.3 Trillion in outstanding student loan debts. Approximately 25% of borrowers are 90 days or more behind in their payments. That means that there are around $325 Billion dollars in loans that are not being repaid already.

Borrowers who are in default would be well advised to contact their loan processor and get on a payment plan. Not doing

so could result in some very big surprises when they can least afford them. For example, if you are injured at some time in your working life and forced into Social Security disability payments, the government can garnish 100% of those funds to repay student loans. The same is true if you retire and file for Social Security. You could find yourself entering your â€œgolden yearsâ€• with absolutely no income.
byJim Malmberg
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