

## ABSTRACT

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*Lockhart v. United States: Decapitating the New Deal & Ignoring the Plain Language of the Social Security and Debt Collection Improvement Acts*

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Abstract by Andrew Paul Kawel

The author attempts to reconcile conflicting statutory provisions that govern when and how administrative agencies may offset delinquent federal student loan debts through the garnishment of Social Security benefits, and further attempts to find a reading of those provisions that will allow both their coexistence and the satisfaction of their respective goals. In contrast to the Supreme Court, which held in *Lockhart v. United States* that the Higher Education Technical Amendments (HETA) abrogated all statutes of limitation on the collection of student loans, the author concludes that the plain language of the Debt Collection Improvement Act (DCIA) and the Social Security Act (SSA) bars the government from using Social Security benefits to offset delinquent student loan debt that is over ten years old.

The article sets forth the author's view that the *Lockhart* court should have adopted the logic of the Eighth Circuit case *Lee v. Paige*, which would have prohibited the use of Social Security benefits to offset the student loans, but still would have allowed the government to collect debt on loans older than ten years through alternate means. In the author's view, the Supreme Court should not have given *Chevron* deference to the administrative statutory interpretation in *Lockhart* because the plain language of the provisions makes clear Congress's legislative intent. Furthermore, in the author's view, even if *Chevron* deference were appropriate, the agency interpretation would be unreasonable because it violated several canons of construction such as the mandate that, when possible, multiple statutes must be read in a way that allows them to coexist, as well as the mandate that specific statutes must trump general statutes when a court cannot find any clear legislative intent.

Part I describes the administrative process that accompanies a debtor's defaulting on a student loan, analyzes relevant conflicting provisions of the SSA, the DCIA, and the HETA, and examines the treatment that various courts have given those provisions. Part II analyzes the amount of deference that agency interpretation of those conflicting provisions should receive, and the reasonableness of the administrative statutory interpretation that the Supreme Court upheld in *Lockhart*. Part III predicts several ramifications of the *Lockhart* decision and urges a different interpretation of the provisions.