

Opinion in Chambers

ROSADO ET AL. v. WYMAN ET AL.

ON APPLICATION FOR STAY AND OTHER RELIEF

Decided August 20, 1969

Application for interim stay and other relief should be passed on by full Court, since factors involved in granting a stay call for the Court's collective judgment, the Court has denied a similar stay at a different stage of the case, and an individual Justice cannot order an accelerated schedule that is importantly related to the stay request.

See: 414 F. 2d 170.

*Lee A. Albert* and *Robert B. Borsody* on the application.

*Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, *Amy Juviler*, Assistant Attorney General, and *Philip Weinberg* in opposition.

MR. JUSTICE HARLAN, Circuit Justice.

While I am of the view that this case is not unlikely to be found a worthy candidate for certiorari, I am also of the opinion that the present application for an interim stay and other relief should be passed along to the full Court for consideration.

The latter conclusion follows from my belief that the factors involved in determining whether a stay should issue are such as to call for the collective judgment of the members of the Court and not merely that of an individual Justice; from the circumstance that the Court itself has already denied a similar stay application, albeit at a stage when the case was in a different posture; and from the fact that an individual Justice has no power to order an accelerated schedule for briefing and

hearing on the underlying merits of the case, an aspect of the present application that seems to me importantly related to the request for a stay.

If applicants' petition for certiorari is promptly filed, that should ensure its consideration and disposition by the Court at its first Conference in October. At that time, I shall, pursuant to Rule 50 (6), refer this application to the Court for simultaneous consideration and action.