

NATIONAL LABOR RELATIONS BOARD *v.*
GETMAN ET AL.

ON APPLICATION FOR STAY

No. A-109. Decided July 27, 1971

Stay of District Court's order under the Freedom of Information Act, 5 U. S. C. § 552 (a)(3), that National Labor Relations Board (NLRB) provide respondents with certain records concerning labor representation elections denied, the Act providing no exception authorizing the NLRB's refusal to produce the requested records.

MR. JUSTICE BLACK, Acting Circuit Justice.

Respondents, two law professors who are undertaking a study of labor representation elections, applied for and obtained an order from the United States District Court for the District of Columbia requiring the National Labor Relations Board to provide respondents "with names and addresses of employees eligible to vote in approximately 35 elections to be designated by (respondents)." Respondents base their claim to the information on the language of the Freedom of Information Act, 5 U. S. C. § 552 (a)(3), which requires that a Government agency "on request for identifiable records . . . shall make the records promptly available to any person." The Government has filed an application seeking a stay of the order of the District Court. This application was assigned to me in the absence of THE CHIEF JUSTICE.

The Government applies for a stay on the ground that the District Court order requiring the Board to comply with the Freedom of Information Act and deliver the records in question to respondents would interfere with the representation election procedures under the National Labor Relations Act, 49 Stat. 449, as amended. The Board was created by Congress and Congress has

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seen fit to make identifiable records of the Board and other Government agencies available to any person upon proper request. I find no exception in the Freedom of Information Act which would authorize the Board to refuse promptly to turn over the requested records. I deny the application for stay without prejudice to the Government to present its application to another Member of this Court.

It is so ordered.