

KADANS *v.* COLLINS ET AL.

## ON APPLICATION FOR TEMPORARY RELIEF

No. A-784 (71-463). Decided January 31, 1972

Application for temporary relief allowing petitioner to practice law pending consideration of petition for rehearing by the Court denied by JUSTICE DOUGLAS, because of the nature of the relief requested and because he was not one of the majority who voted to deny the petition for certiorari.

See: *Ante*, p. 1007.

MR. JUSTICE DOUGLAS, Circuit Justice.

The petition for certiorari in this case was denied by the Court on January 10, 1972, MR. JUSTICE BRENNAN and I noting that we voted to grant. *Ante*, p. 1007.

Petitioner now asks me for temporary relief allowing him to practice law pending consideration by the Court on a petition for rehearing. The difficulty is that the grant of that relief would in effect be a partial grant of relief sought in the petition for certiorari. I, one of the dissenting Justices, am barred by our Rule 58 (1) from voting on a petition for rehearing, those petitions being considered only by those "who concurred in the judgment or decision." Unless one of the majority who voted to deny votes to reopen the case, the dissenters take no part. If one who voted to deny changes his mind and votes to grant the petition, then of course the entire Court participates. But in light of this rule and in light of our practice and in consideration of the nature of the relief that is being asked of me, I herewith deny the application.