

Opinion in Chambers

COMMUNIST PARTY OF INDIANA *ET AL. v. WHITCOMB*, GOVERNOR OF INDIANA, *ET AL.*

ON APPLICATION FOR STAY

No. A-378. Decided October 6, 1972

Motion denominated an application for stay but intended to secure a partial summary reversal of the District Court's order denied, since the applicants' right to such relief is not indisputably clear.

MR. JUSTICE REHNQUIST, Circuit Justice.

Applicants have filed a motion denominated an "Application for Stay of Order of United States District Court of the Northern District of Indiana, Hammond Division," which order was entered following a hearing on their complaint alleging that the oath required by Indiana law in order for a party to be placed on the ballot was unconstitutional. An examination of the application, however, shows that applicants do not seek a stay of that order, but instead a partial summary reversal of the District Court order entered on October 4, 1972. While a Circuit Justice of this Court apparently has authority under Supreme Court Rule 51 to grant such relief in the form of a mandatory injunction, usage and practice suggest that this extraordinary remedy be employed only in the most unusual case. In order that it be available, the applicants' right to relief must be indisputably clear. Applicants do not present such a case, and their application is therefore denied.