

Opinion in Chambers

PRUDENTIAL FEDERAL SAVINGS & LOAN ASSOCIATION v. FLANIGAN

ON APPLICATION FOR INJUNCTION

No. A-229. Decided September 25, 1986

An application for an injunction pending appeal is denied because the constitutional issues raised were not presented to the Montana Supreme Court until applicants filed for a rehearing, which was denied without comment, consistent with that court's practice of refusing to consider issues not pressed at every stage of litigation.

JUSTICE REHNQUIST, Circuit Justice.

The application for a writ of injunction pending appeal is denied. The constitutional issues addressed in the application were not properly presented to the Montana Supreme Court until the applicants filed for rehearing. The court denied the petition for rehearing without comment, consistent with its practice of refusing to consider issues not pressed at each stage of the litigation. See *Femling v. Montana State University*, — Mont. —, 713 P. 2d 996, 999 (1986); *Dodd v. East Helena*, 180 Mont. 518, 523, 591 P. 2d 241, 244 (1979). Under these circumstances, the claims presented by the applicants are not properly before me. "Questions first presented to the highest State court on a petition for rehearing come too late for consideration here . . ." *Radio Station WOW, Inc. v. Johnson*, 326 U. S. 120, 128 (1945).

Denied.