

OPINION OF INDIVIDUAL JUSTICE
IN CHAMBERS

MURDAUGH, SOLICITOR, 14TH JUDICIAL CIRCUIT
OF SOUTH CAROLINA, ET AL. *v.* LIVINGSTON

ON APPLICATION TO VACATE STAY

No. A-396. Decided November 18, 1998

The State's application to vacate an October 20, 1998, temporary restraining order enjoining it from proceeding with indictments against respondent is denied without prejudice. Under Federal Rule of Civil Procedure 65, such an order ordinarily cannot remain in effect for more than 10 days. Here, the Magistrate Judge has recommended dismissal, and the matter appears to be pending before the District Court. Should that court issue a preliminary injunction or further stay the proceedings, the State may renew its application.

CHIEF JUSTICE REHNQUIST, Circuit Justice.

The District Court in this case entered a temporary restraining order on October 20, 1998, against the State, enjoining it from proceeding further with the indictments against respondent. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, a temporary restraining order cannot remain in effect for more than 10 days unless extended for good cause by the district court or consented to by the adverse party. I am advised that the Magistrate Judge to whom this case was assigned has recommended dismissal, and, so far as I know, the matter is now pending before the District Court. I therefore deny the State's application to vacate the stay, without prejudice to its renewal should the District Court issue a preliminary injunction or further stay the criminal proceedings.