Opinion in Chambers

# WISCONSIN RIGHT TO LIFE, INC. *v.* FEDERAL ELECTION COMMISSION

ON APPLICATION FOR INJUNCTION

No. 04A194. Decided September 14, 2004

Applicant's request for an injunction pending appeal barring the enforcement of § 203 of the Bipartisan Campaign Reform Act of 2002 (BCRA) is denied. Applicant contends that § 203—which bans corporations from using general treasury funds to finance certain electioneering communications—violates the First Amendment as applied to its political advertisements. An injunction pending appeal would be an extraordinary remedy, particularly when this Court recently held BCRA facially constitutional, *McConnell* v. *Federal Election Comm'n*, 540 U. S. 93, 189–210, and when a three-judge District Court unanimously rejected applicant's request for a preliminary injunction. The All Writs Act, the only source of this Court's authority to issue the instant injunction, is to be used "'"sparingly and only in the most critical and exigent circumstances."'" *Ohio Citizens for Responsible Energy, Inc.* v. *NRC*, 479 U. S. 1312, 1313, (SCALIA, J., in chambers). Applicant has not established that this extraordinary remedy is appropriate here.

CHIEF JUSTICE REHNQUIST, Circuit Justice.

Applicant Wisconsin Right to Life, Inc., has requested I grant an injunction pending appeal barring the enforcement of § 203 of the Bipartisan Campaign Reform Act of 2002 (BCRA), 116 Stat. 91, 2 U. S. C. § 441b (2000 ed. and Supp. II), which bars corporations from using general treasury funds to finance electioneering communications as defined in BCRA § 201. Applicant contends that § 203 violates the First Amendment as applied to its political advertisements. A three-judge District Court, convened pursuant to BCRA § 403(a)(1), denied applicant's motion for a preliminary injunction and denied applicant's motion for an injunction pending appeal. I herewith deny the application for an injunction pending appeal.

An injunction pending appeal barring the enforcement of an Act of Congress would be an extraordinary remedy, par-

ticularly when this Court recently held BCRA facially constitutional, *McConnell* v. *Federal Election Comm'n*, 540 U. S. 93, 189–210 (2003), and when a unanimous three-judge District Court rejected applicant's request for a preliminary injunction. See *Turner Broadcasting System, Inc.* v. *FCC*, 507 U. S. 1301, 1302–1303 (1993) (REHNQUIST, C. J., in chambers). The All Writs Act, 28 U. S. C. § 1651(a), is the only source of this Court's authority to issue such an injunction. That authority is to be used "'"sparingly and only in the most critical and exigent circumstances."'" *Ohio Citizens for Responsible Energy, Inc.* v. *NRC*, 479 U. S. 1312, 1313 (1986) (SCALIA, J., in chambers) (quoting *Fishman* v. *Schaffer*, 429 U. S. 1325, 1326 (1976) (Marshall, J., in chambers)). It is only appropriately exercised where (1) "necessary or appropriate in aid of [our] jurisdictio[n]," 28 U. S. C. § 1651(a), and (2) the legal rights at issue are "indisputably clear," *Brown* v. *Gilmore*, 533 U. S. 1301, 1303 (2001) (REHNQUIST, C. J., in chambers). Applicant has failed to establish that this extraordinary remedy is appropriate. Therefore, I decline to issue an injunction pending appeal in this case.