Order in Chambers

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SUPREME COURT OF THE UNITED STATES

No. 04A378

DEMOCRATIC NATIONAL COMMITTEE ET AL.
v.
REPUBLICAN NATIONAL COMMITTEE ET AL.

EBONY MALONE, INTERVENOR

ON APPLICATION TO VACATE STAY

[November 2, 2004]

JUSTICE SOUTER, Circuit Justice.

The individual Ohio voter who intervened in this case claimed that the Republican National Committee threatened to violate a consent decree, by challenging Ohio voters named on a list of 35,000 individual names compiled by Republican officials in Ohio in cooperation with the Republican National Committee. She alleged that her right to vote and that of other minority voters would be jeopardized by the anticipated challenges from the Republican side. Yesterday, the District Court found such a threatened violation and issued the injunction requested, a stay of which was denied by a divided panel of the Court of Appeals for the Third Circuit late last night. Following the action that was subject to JUSTICE STEVENS's order in Chambers earlier today in *Spencer* v. *Pugh,* 543 U. S. ___ (2004), the Republican National Committee moved for rehearing or rehearing *en banc*, the latter of which was granted this afternoon by order staying the injunction. The intervenor alone has now applied to me in my capacity as Circuit Justice for the Third Circuit for a stay of the

en banc order itself, which would effectively reinstate the injunction. Since making the application, she has filed a further pleading disclosing that she has already voted without challenge. Under the circumstances, I have decided against referring the application to the full Court and now deny it.