

Opinion in Chambers

SUPREME COURT OF THE UNITED STATES

No. 04A194

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

ON APPLICATION FOR INJUNCTION

[September 14, 2004]

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), Pub. L. 107–155, 116 Stat. 91–92, 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, particularly when this Court recently held that Act 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 circum-

stances.” *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] jurisdiction[n],” 28 U. S. C. §1651(a), and (2) the legal rights at issue are “indisputably clear,” *Brown v. Gilmore*, 533 U. S. 1301 (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.