

Whitcomb Vs. Chavis

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Court : US Supreme Court

Decided On : 1970

Appeal No. : 396 U.S. 1064

Appellant : Whitcomb

Respondent : Chavis

Judgement :

WHITCOMB v. CHAVIS - 396 U.S. 1064 (1970)

U.S. Supreme Court WHITCOMB v. CHAVIS , 396 U.S. 1064 (1970)

396 U.S. 1064

Edgar D. WHITCOMB, Governor of the State of Indiana, appellant,

v.

Patrick CHAVIS et al.

No. ____.

Supreme Court of the United States

February 6, 1970

James Manahan, on the motion.

The emergency motion to vacate or modify the stay order of February 2, 1970, is denied. The motion to advance is denied without prejudice to its renewal following the filing of the statement as to jurisdiction.

Mr. Justice DOUGLAS dissenting from the denial of the motion to vacate or modify the stay order of February 2, 1970:

'After a trial on June 17 and 18, 1969, a three-judge District Court entered an order on July 28, 1969, in which it held the multi-member districting provisions of the present Indiana apportionment statutes unconstitutional as they applied to Marion County, Indiana. The State was given until October 1, 1969, to enact statutes redistricting the State so as to correct the constitutional infirmity. Upon the State's failure to enact such statutes, the District Court, on December 15, 1969, entered an order establishing legislative districts in the State. This Court, on February 2, 1970, granted a stay of the District Court's December 15 order pending the filing and disposition of an appeal from that order.

'The appellees have now filed a motion to vacate the stay. I would grant the motion. The constitutionality of the present Indiana apportionment scheme was thoroughly briefed and argued in the three-judge District Court below. There is no reason to disturb the order of that court pending the disposition of the appeal by this Court. The date for the commencement of filing for the November 1970 election to the General Assembly is February 24, 1970. The State contends that without a stay it will be forced to conduct the forthcoming election under the reapportionment plan of the District Court. By granting the stay, however,

Page 396 U.S. 1064 , 1065

this Court has equally forced the appellees to go through the election under the present scheme which was held unconstitutional by the District Court. Under these circumstances, I see no reason to stay the order of the District Court.'