Opinion in Chambers

SUPREME COURT OF THE STATE OF RIDGEWAY

No. 22A002

STANLEY_LABSON *v.* DANNLABS.

ON APPLICATION FOR STAY

[August 9, 2022]

JUSTICE POWELL, Applications Justice.

I have before me an emergency application for a stay of the Superior Court's judgment requiring applicant to pay $3,500 to respondent by tomorrow, August 10th. Applicant claims that he purchased advertisements suggesting that respondent, a former Judge of the Superior Court, "kicks dogs" and "endorses fake condiments." Application for Stay 2. Although applicant viewed those advertisements as satirical and "pok[ing] fun at a political official," respondent filed suit in the Superior Court, arguing that the advertisements constituted tortious interference and fraud. The Superior Court, after a bench trial, found that applicant did defame respondent with his advertisements, and entered a judgment requiring applicant to pay $1,500 on the claim of tortious interference, as well as $2,000 on the claim of fraud. Applicant then filed this application with me, in my capacity as an Associate Justice of the Supreme Court.

This Court recently explained the standard for obtaining a stay pending a petition for a writ of certiorari or a stay pending appeal. The applicant must demonstrate "(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari or note probable jurisdiction; (2) a fair prospect that a majority of the Court

will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." *In re Centurion,* 1 Rid. 35, 37 (2022); see also *Indiana State Police Pension Trust* v. *Chrysler, LLC*, 556 U. S. 960 (2009) (*per curiam*). Furthermore, "[i]n close cases the issuing Justice or the Court should balance the equities and weigh the relative harms to the applicant and to the respondent." *Id.* Of course, a stay issued by a single Justice of this Court is certainly "extraordinary relief," *Teva Pharmaceuticals USA, Inc.* v. *Sandoz, Inc.,* 572 U. S. 1301 (2014) (Roberts, C. J., in chambers), and the applicant "bears a heavy burden" of demonstrating that they have satisfied the factors described above. *Philip Morris USA Inc.* v. *Scott,* 561 U. S. 1301, 1302 (2010) (Scalia, J., in chambers). Therefore, "[d]enial of such in-chambers stay applications is the norm." *Conkright* v. *Frommert,* 556 U. S. 1401, 1402 (2009) (Ginsburg, J., in chambers).

I do not believe that applicant has proven he will suffer irreparable injury absent a stay. Applicant argues that not only "living day-to-day without the $3,500 nearly impossible in the meantime, it also is profoundly difficult to get it back once the judgement is reversed." But "[m]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough" to demonstrate irreparable harm. *Sampson* v. *Murray*, 415 U. S. 61, 90 (1974) (quoting *Virginia Petroleum Jobbers Assn.* v. *FPC*, 259 F. 2d 921, 925 (CADC 1958) (*per curiam*)). "The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm." *Id.*; see also *Conkright, supra,* at 1403 ("trouble recouping… funds" does not constitute irreparable injury where it is not impossible for applicants to do so). But cf. *Philip Morris, supra,* at 1304-1305 (noting that where "expenditures cannot be recouped" or monetary awards will appear to be "irrevocably expended" before the reviewing

court can hear applicant's case, payment of money may be considered irreparable injury). In the event that applicant is successful in this Court, the Superior Court has several enforcement mechanisms to require respondent to return the payment to applicant.

Applicant's failure to demonstrate that it would be impossible to recoup his losses if the Superior Court's judgment is reversed, as well as the fact that the Superior Court can require respondent to repay applicant following such a reversal, indicates that he will not suffer irreparable injury absent a stay. "An applicant's likelihood of success on the merits need not be considered . . . if the applicant fails to show irreparable injury from the denial of the stay." See *Ruckelshaus* v. *Monsanto Co.,* 463 U. S. 1315, 1317 (1983) (Blackmun, J., in chambers); *Whalen* v. *Roe,* 423 U. S. 1313, 1317 (1975) (Marshall, J., in chambers).

I therefore deny the application for a stay.