

(ORDER LIST: 562 U.S.)

FRIDAY, OCTOBER 22, 2010

ORDER IN PENDING CASE

10A362 RESPECT MAINE PAC, ET AL. V. MCKEE, WALTER F., ET AL.

The application for an injunction, presented to Justice Kennedy and by him referred to the Court, is denied. Applicants are correct to note that relief was granted in *McComish v. Bennett*, 560 U. S. ___, (2010), which concerned a constitutional challenge to an Arizona law similar to the Maine law challenged by applicants here. The *McComish* applicants, however, requested a stay of an appeals court decision, whereas applicants here are asking for an injunction against enforcement of a presumptively constitutional state legislative act. Such a request “demands a significantly higher justification” than a request for a stay because, unlike a stay, an injunction “does not simply suspend judicial alteration of the status quo but grants judicial intervention that has been withheld by lower courts.” *Ohio Citizens for Responsible Energy, Inc. v. NRC*, 479 U. S. 1312, 1313 (1986) (Scalia, J., in chambers). In light of these considerations, and given the difficulties in fashioning relief so close to the election, applicants’ request for extraordinary relief is denied.

Justice Scalia and Justice Alito would grant the application for an injunction as to the matching fund provisions.