

OPINIONS OF INDIVIDUAL JUSTICES IN
CHAMBERS

HORTONVILLE JOINT SCHOOL DISTRICT NO. 1
ET AL. v. HORTONVILLE EDUCATION
ASSOCIATION ET AL.

ON APPLICATION FOR STAY

No. A-133 (74-1606). Decided August 18, 1975

Application for stay of Wisconsin Supreme Court judgment, holding on due process grounds that a school board may not properly dismiss teachers employed by it, denied, where it is not clear whether that judgment rested upon the Fourteenth Amendment alone or also upon the Wisconsin Constitution, and whether the judgment was "final" for purposes of 28 U. S. C. § 1257.

See: 66 Wis. 2d 469, 225 N. W. 2d 658.

MR. JUSTICE REHNQUIST, Circuit Justice.

If the judgment of the Supreme Court of Wisconsin were plainly a "final judgment" for purposes of 28 U. S. C. § 1257, and if it plainly rested solely upon a construction of the Fourteenth Amendment to the United States Constitution, I would be inclined to grant the stay requested by the applicant School Board. I think that none of our cases requires the conclusion, reached by the Wisconsin court, that a school board may not be allowed to dismiss teachers whom it employs because it is not the sort of impartial decisionmaker required by due process of law. If this matter were before me on the petition for certiorari where I would be casting my vote as a Member of the Court, I would conclude that the judgment of the Supreme Court of Wisconsin did rest solely upon the Fourteenth Amendment. But in

