

Joe

83-219 MCDONALD v. CITY OF WEST BRANCH

Argued 2/27/84

Achtenberg (Petr)

Petr. did it control her own defense before the Arbitrator. Union appointed ~~the~~ lawyer & initiated arbitration. Issue before Arbitrator was not the 1st amend. claim. On facts is similar to Gardner-Denver.

BRW asked whether there would be preclusion in state court

Mich. law would not give preclusive effect to arbitrator's decision in a state civil rights suit. If state court ^{suit} involved a dispute under ~~CBA~~ CBA, there would be preclusion.

Here ~~is~~ suit raises a Const. Q - 1st amend - not a ~~Request~~ Request that Arbitrator decided.

State law is not relevant in this case. If we think it is relevant would should ~~decide~~ decide it here - not necessary to remand.

Smith (Resp)

Petr has filed at least four proceedings on all sorts of claims.

Arbitrator did have power to pass on the 1st amended issue. ~~Petr~~

Petr waived 1st amended claim by failing to rely on this at arbitration ~~stage~~ stages.

Briefs were filed with arbitrator & he wrote a 13 pg. op.

McDonald negotiated the CBA & was the Union Steward. Therefore was familiar with its provisions.

WHR noted that their "factual background" is irrelevant to decision of this case.

§ 1983 different type statute from Title VII & FLSA.