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[00:00:00] **Speaker 1** Supreme Court's actions, and I read a couple full screens, one from Tammy Baldwin, one from Robin Voss, then we introduce you, and then we've got a little over five minutes for our conversation.

[00:00:10] **Speaker 2** Sounds good!

[00:00:10] **Speaker 1** Okay, and during the thing, I will be looking over here because that's where your image is on the monitor for what our audience will see. So don't think I'm wandering off and looking a different direction, but that's were you appear in our studio. We're all set. We're just about ready. The Wisconsin Supreme Court this week announced they were temporarily suspending Milwaukee County Judge Hannah Dugan, quote, in order to uphold the public's confidence in the courts of this state. Duggan was arrested and charged in federal court with obstructing federal immigration officials in their efforts to arrest an illegal immigrant following an appearance in her courtroom. Reactions to these events have remained political. Democratic U.S. Senator Tammy Baldwin said, quote, The president's administration arresting a sitting judge is a gravely serious and drastic move. While details of this exact case remain minimal, this action fits into the deeply concerning patterns of this president's lawless behavior in undermining courts and Congress's checks on his power. While Republican Assembly Speaker Robin Voss said, quote, these are serious charges and it's important to remember no one is above the law. We are reviewing the situation and the charges result in a conviction we will act. Judge Dugan's decision to hide a dangerous illegal immigrant was irresponsible and put public safety at risk. Joining us now is UW-Madison professor emeritus Howard Schwaber. Thanks for your time.

[00:01:49] **Speaker 2** Well, thanks for having me.

[00:01:50] **Speaker 1** So what is your opinion of the case put forward by the federal government? Did they have grounds to make an arrest here?

[00:01:57] **Speaker 2** Well, we have to keep in mind that the only facts we have to go on are those contained in the complaint, right? And there's a reason we don't take complaints at face value. That's why we have trials. So based, but based only on those facts and assuming everything that is alleged in the complaints is true, yeah, they've got a pretty strong case. The ICE agents were in the public areas of the courthouse where law enforcement was permitted by both law and tradition to make arrests. It appears the judge very much went out of her way. To help this guy evade arrest. It was not a matter of simply like pointing to a door. There was much more to it than that, according to the allegations. So if these facts bear out, and if she is convicted on the basis of the complaint as it stands, I would say that the case against her is pretty strong. But at that point, I think there'd be no doubt that the state Supreme Court, as well as the state legislature, would take action to remove her from the bench.

[00:02:50] **Speaker 1** Now, her case will play out in federal court, but what's the impact in other courtrooms? Is there any doubt the Trump administration was trying to send a message to all judges everywhere in these actions?

[00:03:00] **Speaker 2** No, there's no doubt about that at all. It's worth remembering that in his first term, Trump also had a judge in Massachusetts arrested. It's also worth pointing out that this, the decision by the state Supreme Court to suspend Judge Dugan was seven to zero, was unanimous. It's temporary and it's a suspension with pay. So we shouldn't overstate where we are at in the specifics of the case, but the political environment is exactly what you just raised. The Trump administration has been going after and trying to intimidate federal judges from the beginning with threats of impeachment and threats to shut down courthouses. I don't think it's a coincidence that this week the Trump administration announced an executive order targeting state and local officials who interfere with deportation efforts. And the manner of the arrest was really egregious. Handcuffs and photographs. And publicity, you know, the purple walk element of the whole thing. That was very clearly an esthetic intended to send a message that's of a threat to judges everywhere, state and local judges everywhere. You know, don't get in our way. It won't end well for you.

[00:04:05] **Speaker 1** Some law enforcement officials like here in Dane County specifically avoid asking questions around immigration status because they've said they don't want potential witnesses or victims to feel intimidated or have concerns about showing up at courtrooms. What will this mean in terms of justice in a lot of other cases that have nothing to do with this particular issue.

[00:04:26] **Speaker 2** That's the policy side of this, and it's absolutely, again, you've raised exactly the right concern. It doesn't work to simply exclude a category of people and say, if you participate in our court system in any way, you may be subject to arrest. That's going to make them go underground, and that's going make it harder for the police and for prosecutors in criminal cases and in civil cases, though. Cases of, for example, domestic abuse, which is one of the allegations that's involved in this case. It just gets very much harder for the rule of law to be maintained, for people to be protected. So on policy grounds, you know, there's a really good reason why in the past law enforcement has been very hesitant to operate inside of court houses and especially court rooms. Again, I have to come back to two key points here. One, if every single one of the facts alleged is exactly as the federal government says it is, this is a strong case, and this judge acted at least recklessly. And two, the unanimous opinion by the state Supreme Court, I think, shows that that court is very, very concerned not to see this become a disruption of the court system as a whole, not to these kind of conflicts spreading across the state. But the background politics of intimidation of state and local officials and of judges in particular, I think is in everyone's mind, and rightly so.

[00:05:42] **Speaker 1** Now we spoke with one of the nine chief judges in Wisconsin and they said they're waiting for the director of state courts or the chief of chiefs to speak out, but we've heard nothing so far other than this one statement by the Wisconsin Supreme Court. And is the silence pretty loud in that situation? Do they have an obligation to speak out publicly or give guidance to judges in this situation?

[00:06:04] **Speaker 2** Well, I don't know about an obligation. The big question is, this gets rather technical. The case involved an administrative warrant. Administrative warrants, unlike warrants signed by judges, do not permit law enforcement to enter into private spaces without permission. There's a kind of backward understanding that courtrooms are treated as private spaces, but that the public areas of courthouses are not. And that's an established understanding. That's not brand new. I think it would be useful for the chief judge to come up with a clear set of guidelines the judges around the state. But certainly part of the problem is there has to be a concern of pushback from the federal government and from federal authorities if the feds don't like the rules that Wisconsin comes up with. So there may be negotiations going on behind the scenes to try to get that worked out. We've seen one Wisconsin judge already threaten to effectively shut down her courtroom. In the absence of guidance, you know, that's another thing that could spread and that would be a problem. So I expect that a statement would be forthcoming, and I expect it will have some detailed rules and policies. And I think the one thing that's very clear that the state Supreme Court has made very clear is once those policies are in place, they will be enforced.

[00:07:13] **Speaker 1** Professor Schreiber, thanks for your time today. Thank you so much, sir. Good to hear from you. We'll see you back in Wisconsin.

[00:07:24] **Speaker 2** You better sorry about the player of the last night about

[00:07:27] **Speaker 1** We're good. Thank you.