



Written by [Raven Clabough](#) on August 5, 2010

Homosexual Judge Okays Same-sex Marriage

U.S. District Chief Judge Vaughn Walker on August 4 ruled against Proposition 8, a referendum passed by California voters in November 2008 that banned same-sex marriages in the state of California. According to the Judge, the ban violated the constitutional rights of gays and lesbians.

Exercising its rights under the Tenth Amendment, the state of California debated and voted on same-sex marriage and ultimately made its decision in a 52-48 decision in November 2008 banning same-sex marriage. The vote overturned a state Supreme Court ruling six months earlier that legalized homosexual marriage.



The law has been contested, however, by homosexuals in California who sought a judicial activist to succumb to their bidding.

On behalf of a gay couple in Southern California and a lesbian couple in Berkeley, a federal challenge was filed, with the couples represented by Solicitor General Ted Olson and David Boies.

The city of San Francisco and homosexual couples from Burbank and Berkeley served as witnesses against Proposition 8 in Walker's court, while sponsors of Proposition 8, led by Attorney Charles Cooper, appeared as witnesses in support of the law.

According to Walker, an appointee of President George H. W. Bush, "Plaintiffs challenge Proposition 8 under the Due Process and Equal Protection Clauses of the Fourteenth Amendment. Each challenge is independently meritorious, as Proposition 8 both unconstitutionally burdens the exercise of the fundamental right to marry and creates an irrational classification on the basis of sexual orientation."

In his 136-page decision, Walker concluded that Proposition 8 "fails to advance any rational basis in singling out gay men and lesbians for denial of a marriage license. Indeed, the evidence shows Proposition 8 does nothing more than enshrine in the California Constitution the notion that opposite-sex couples are superior to same-sex couples.... Because Proposition 8 prevents California from fulfilling its constitutional obligation to provide marriages on an equal basis, the court concludes that Proposition 8 is unconstitutional."

Governor Arnold Schwarzenegger and Los Angeles Mayor Antonio Villaraigosa supported the Judge's decision, crediting him with the "courage to stand up for the constitution."

Legal counsel for the Alliance Defense Fund Austin Nimocks defended Proposition 8 in Walker's court, and vows to appeal. He states, "We're obviously disappointed that the judge did not uphold the will of over 7 million Californians who made a decision in a free and fair democratic process."

The appeal to the Ninth Circuit court can take up to a year to be decided, but it seems likely that the fight for same-sex marriage will make its way to the U.S. Supreme Court.



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A recent Gallup poll shows that 53 percent of Americans reject same-sex marriage while 44 percent support it.

For now, California joins five other states — Massachusetts, Connecticut, Vermont, Iowa, and New Hampshire — as well as the District of Columbia, in legalizing gay marriage.

President of the National Organization for Marriage Brian Brown reacts to the Judge's decision: "Big surprise! We expected nothing different from Judge Vaughn Walker, after the biased way he conducted his trial. With a stroke of his pen, Judge Walker has overruled the votes and values of 7 million Californians who voted for marriage as one man and one woman."

Critics of Judge Walker's decision have cited [the Judge's own homosexuality](#) as an innate bias in his decision.

In February 2010, Ed Whelan of *National Review* [predicted](#) that Judge Walker's decision will not be determined wholly by his sexuality, but by his inability to rule impartially. Citing a variety of examples supporting this statement, Whelan concludes, "Walker's entire course of conduct has only one sensible explanation: that Walker is hellbent to use the case to advance the cause of same-sex marriage."

Apparently, Whelan was correct.

Photo: U.S. District Chief Judge Vaughn R. Walker



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