



Written by [Dave Bohon](#) on November 22, 2011

Calif. High Court Ruling Favorable for Traditional Marriage

The California Supreme Court issued a ruling November 17 clearing the way for champions of traditional marriage to continue defending Proposition 8, the state constitutional amendment passed by voters in 2008 that stipulates that “only marriage between a man and a woman is valid or recognized in California.”



In August 2010 a district court overturned Prop 8, and when then-Governor Governor Arnold Schwarzenegger and then-Attorney General Jerry Brown refused to take up the law’s defense in federal court, the amendment’s official sponsor, [ProtectMarriage.com](#), stepped in to do so.

As the U.S. Ninth Circuit Court of Appeals took the case in hand, it was soon faced with whether ProtectMarriage.com had legal standing to defend the amendment before the federal court. That was the question it put before the California Supreme Court, which answered in the affirmative.

“Neither the Governor, the Attorney General, nor any other executive or legislative official has the authority to veto or invalidate an initiative measure that has been approved by the voters,” Chief Justice Tani Cantil-Sakauye (pictured above) wrote for the court. “It would exalt form over substance to interpret California law in a manner that would permit these public officials to indirectly achieve such a result by denying the official initiative proponents the authority to step in to assert the state’s interest....”

The ruling sends the case back to the Ninth Circuit, which, reported [Baptist Press News](#), will now decide “an even more significant issue: whether California — and by extension all states — can prevent ... the traditional definition of marriage from being redefined.”

Stephen I. Vladeck, professor of law at American University, told [ABC News](#): “The California Supreme Court’s decision punts the ball right back to the Ninth Circuit, which will now have to decide whether Prop. 8’s proponents may go forward as a matter of federal law, and, if so, whether the district court was right to strike down California’s ban on gay marriage.” He added that the Ninth Circuit “may have been looking for a way out of deciding this case, but the California Supreme Court refused to give them one.”

Had California’s high court ruled against Prop 8 supporters, the decision would likely have set in motion the process leading to the legalization of homosexual marriage in California. That process began when lower court judge Vaughn Walker, a homosexual, struck down Prop. 8 — the ruling that ProtectMarriage.com is now appealing to the Ninth Circuit.

In an editorial opinion, the [Los Angeles Times](#) predicted that the Ninth Circuit would ultimately rule against Prop 8, quoting Judge Walker’s biased ruling that the amendment “fails to advance any rational



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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.”

Nonetheless, officials for ProtectMarriage.com applauded the state high court ruling as an “enormous boost” for the marriage protection amendment. “This ruling is a huge disaster for the homosexual marriage extremists,” the pro-family leaders said in a statement said, adding that the high court had “totally rejected their demands that their lawsuit to invalidate Proposition 8 should win by default with no defense. Their entire strategy relied on finding a biased judge and keeping the voters completely unrepresented. Today that all crumbled before their eyes.”

Continued the statement: “Today’s decision is a critical step in our three-year battle to uphold marriage between a man and a woman. Now we can return our focus to the Ninth Circuit Court of Appeals and our appeal to reverse the lower court’s decision declaring Proposition 8 and traditional marriage itself ‘unconstitutional.’”

Attorney Brian Raum of the [Alliance Defense Fund](#), which is helping to represent ProtectMarriage.com in the case, said that California’s Supreme Court “was clearly right to conclude that the California marriage amendment should not go undefended just because state officials have refused to defend it. Because the people of California have a right to be defended, Proposition 8’s official proponents will be allowed to continue defending the marriage amendment. Otherwise, state officials would have succeeded in indirectly invalidating a measure that they had no power to strike down directly.”

As for the progress of the case moving forward, Deacon Keith Fournier, editor in chief at [Catholic Online](#), noted that Prop 8’s defenders “are not confident in the Ninth Circuit Court of Appeals because it is an activist Court committed to the kind of cultural and social agenda evidenced by Judge Walker’s opinion.” Nonetheless, he added, what the state supreme court ruling does “is keep this important case alive for what will most likely be a final disposition at the United States Supreme Court. The California Supreme Court got it right this time. Their decision is a victory for marriage and the rule of law.”



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