

Justices Wary of Broad Ruling Endorsing Gay Marriage

Supreme Court justices signaled on Tuesday that they are reluctant to embrace a broad ruling finding a fundamental right to marriage for gays and lesbians across the United States.

As sign-waving demonstrators massed outside, the court completed more than an hour of oral argument on whether to let stand a California ban on **same-sex marriage** without indicating a clear path forward.

Swing vote Justice Anthony Kennedy raised concerns about the court entering “uncharted waters” on an issue that divides the states.

Kennedy even raised the prospect of the court dismissing the case, a relatively unusual move that would leave intact a federal Appeals Court ruling that struck down the law, known as **Proposition 8**.

In a similar vein, Justice Samuel Alito also urged caution, noting that **gay marriage** as a concept is “newer than cellphones and the Internet.”

None of the justices indicated support for the Obama administration’s favored solution, which would strike down Proposition 8 and require the other eight states that already recognize civil unions or domestic partnerships to allow gays and lesbians to marry.

Earlier in the argument, the justices probed lawyers on both sides on the technical issue of whether California opponents of gay marriage had a right to be heard in federal court.

Although there was no apparent consensus on that point, if the court were to find the proponents did not have standing it would not reach the merits and then the federal District Court

ruling that struck down Proposition 8 would be left intact.

U.S. citizens in general do not have a right to sue to enforce laws they favor. Chief Justice John Roberts pressed lawyer Charles Cooper, who represents gay marriage opponents, on why his clients are any different as they seek to enforce Proposition 8.

"I don't think we've ever allowed anything like that," Roberts said.

Prior to expressing his doubts about whether the court should decide the case, Kennedy pressed Cooper on the "imminent legal injury" facing almost 40,000 California children being raised by gay and lesbian couples. "They want their parents to have full recognition and full status," he said.

Cooper, facing a barrage of questions mostly from the Supreme Court's liberal wing, called California's law the equivalent of a "pause button."

Solicitor General Donald Verrilli, arguing on behalf of the Obama administration in support of striking down the law, said the California ban was not a "pause button" but a "delete button."

On Wednesday, the court will consider the 1996 federal **Defense of Marriage Act** (DOMA), which limits the definition of marriage to opposite-sex couples. Rulings in both cases are expected by the end of June.

(To follow oral arguments both days, visit the Reuters live blog at)

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