

Marriage Defenders Seek Supreme Court Prop. 8 Hearing

Defenders of marriage in California will ask the U.S. Supreme Court to review a decision by the U.S. Court of Appeals for the 9th Circuit against the state's **marriage amendment**.

On Tuesday, the full 9th Circuit declined to review a 2-1 decision by a three-judge panel that struck down the constitutional amendment, which 7 million California voters approved through **Proposition 8** in 2008 to protect marriage as the union of one man and one woman.

Brian Raum, senior counsel for the Alliance Defense Fund, which is part of the legal defense team for , argues that marriage is a universal good that has been honored by diverse cultures and faiths for the entire history of Western Civilization. The legal team appealed to the full 9th Circuit in February.

"The legal team looks forward to standing before the U.S. Supreme Court on behalf of the people's right to preserve the fundamental building block of civilization, especially since the dissent accompanying today's decision strongly supports our arguments," Raum says. "The democratic process and the most important human institution—marriage—shouldn't be overthrown based on the demands of Hollywood activists."

On Feb. 7, two judges on a three-judge 9th Circuit panel in *Perry v. Brown* agreed with a federal district judge's decision that California's marriage amendment—Article I, Section 7.5 of the state constitution—is unconstitutional under the U.S. Constitution.

"The Supreme Court has made it perfectly clear that marriage is constitutional as a matter of state public policy," explains lead counsel Charles J. Cooper with the Cooper & Kirk

law firm. "We're pleased to petition the court to hear this case. The lower court opinions were little more than an attack on the character and judgment of millions of Californians, and those decisions essentially ignored all relevant Supreme Court and appellate court precedent. We are hopeful and confident that the Supreme Court will review the 9th Circuit's decision."

A strong dissent accompanied the full 9th Circuit's decision not to review the case. It states, "Based on a two-judge majority's gross misapplication of *Romer v. Evans* ... we have now declared that animus must have been the only conceivable motivation for a sovereign State to have remained committed to a definition of marriage that has existed for millennia.

"Even worse, we have overruled the will of 7 million California Proposition 8 voters based on a reading of *Romer* that would be unrecognizable to the justices who joined it, to those who dissented from it, and to the judges from sister circuits who have since interpreted it. We should not have so roundly trumped California's democratic process without at least discussing this unparalleled decision as an en banc court."

Maggie Gallagher, president of the Culture War Victory Fund, says unless the Supreme Court intervenes to uphold our democratic rights to debate and settle this question of marriage ourselves, *Perry v. Brown* will become the ***Roe v. Wade*** of our generation—stopping the conversation, inserting alien values into our founding document and spurring another 50 years of culture war.

"There is no honest way to overturn **Prop 8** without creating a fictitious right to **gay marriage** and inserting it into our Constitution," Gallagher says. "Now it's up to the Supreme Court to leave the future of marriage to the good sense of the American people, rather than short-circuit the debate."

The 9th Circuit's decision is on hold until the U.S. Supreme Court has a chance to weigh in on whether to review the case.