

Supreme Court Taps Harvard Professor to Argue Gay Marriage Case

The U.S. Supreme Court appointed a Harvard Law School professor on Tuesday to argue whether the court can rule on the validity of a federal law that defines marriage as a union between a man and a woman.

The high court named law professor Vicki Jackson to address issues that affect the court's ability to rule on the case, not the validity of the law under the U.S. Constitution. The nine justices have an interest in hearing the argument on this issue, although it is a position neither side in the case will defend.

The justices on Friday stepped into the national debate over **same-sex marriage** for the first time by agreeing to review two key same-sex marriage cases. One is a challenge to the 1996 Defense of Marriage Act, or DOMA, which denies federal recognition and benefits to same-sex couples married under state law. The other is a challenge to California's ban on same-sex marriage, known as **Proposition 8**, which voters narrowly approved in 2008.

The court said it wanted to review several technical issues before reaching the merits of each case.

In the challenge to the **Defense of Marriage Act**, the court said it would consider whether it could even decide the case, given that President Barack Obama's administration has said that the law is unconstitutional. A group appointed by the Republican majority in the U.S. House of Representatives has backed the law.

Jackson, who joined Harvard Law School last year from

Georgetown University Law Center, will argue that the Obama administration's position strips the Supreme Court of authority over the case. She will also argue that the congressional group lacks the right to defend the law.

Neither Edith Windsor, the 83-year-old lesbian challenging the federal marriage law, nor the congressional group is expected to make those arguments.

Jackson did not respond to requests for comment. Her appointment will likely lengthen the oral arguments, which usually last an hour.

A leading expert on U.S. constitutional law, Jackson also specializes in gender equality and the federal courts, according to Harvard's website. She was previously a lawyer in the Justice Department's Office of Legal Counsel and a clerk for U.S. Supreme Court Justice Thurgood Marshall.

The justices often tap former Supreme Court clerks to make such orphan arguments.

In agreeing to review the California gay marriage ban, the justices also said they wanted to consider whether the gay marriage opponents in that case have standing to defend Proposition 8, given that state officials have declined to do so.

The Supreme Court has not appointed anyone to argue on that point. The parties in the California case fought over the question of standing in the lower courts, and are expected to present the justices with their own views on the issue.

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