



## Summary of *Hollingsworth v. Perry* Decision

On June 26, 2013, the United States Supreme Court declined to review the constitutionality of California’s Proposition 8, a state constitutional amendment defining marriage as the union of a man and a woman. The Court reached that conclusion after it determined that the Proposition 8 Proponents lack standing to defend California’s marriage law. The Court’s opinion was authored by Chief Justice Roberts.

The Court concluded that the Proposition 8 Proponents lack standing because they “have no ‘personal stake’ in defending [the marriage amendment’s] enforcement that is distinguishable from the general interest of every citizen in California.”

In particular, the Court rejected the Proponents’ argument that they are authorized under California law to assert the state’s interest in the validity of Proposition 8. The Court reasoned that even though the California Supreme Court permitted the Proponents to assert the state’s interest in the validity of Proposition 8 in state court, California law does not specifically appoint the Proponents as “agents of the people” of California. Finding the lack of an explicit agency relationship between the Proponents and the People, the Court concluded that the Proponents lack standing to defend the measure that they sponsored and supported.

After reaching that conclusion, the Court stressed that “the Ninth Circuit was without jurisdiction to consider the appeal,” and thus “the judgment of the Ninth Circuit is vacated, and the case is remanded with instructions to dismiss the appeal for lack of jurisdiction.”

Justice Kennedy authored the dissenting opinion, which was joined by Justices Thomas, Alito, and Sotomayor. In that opinion, Justice Kennedy and the other dissenting justices stressed that “[t]he Court’s reasoning does not take into account the fundamental principles or the practical dynamics of the initiative system in California, which uses this mechanism to control and to bypass public officials—the same officials who would not defend the initiative, an injury the Court now leaves unremedied.” They also declared: “The essence of democracy is that the right to make law rests in the people and flows to the government, not the other way around. Freedom resides first in the people without need of a grant from government.”