CASE NOTES

Disappointment and Elation: Standing in *Hollingsworth v. Perry*

I. INTRODUCTION 179
II. BACKGROUND 181
III. COURT'S DECISION 184
IV. ANALYSIS 187

I. INTRODUCTION

In 2008, California was one of a growing number of states to recognize same-sex marriages. That year, the California Supreme Court held that limiting the official designation of marriage to opposite-sex couples violated the Equal Protection Clause of the California Constitution.[1] In response, through the California ballot initiative process, Proposition 8 (Prop. 8) was put forth and later became a major part of the 2013 United States Supreme Court docket.[2] Prop. 8 amended the California Constitution to provide, "Only marriage between a man and a woman is valid or recognized in California."[3] California voters passed Prop. 8 into law in November 2008, affirming their desire to prohibit same-sex marriage, despite the holding of the California Supreme Court.[4] The California Supreme Court then held that the Proposition could be appropriately enacted into California law at the will of the voters.[5]

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1. Hollingsworth v. Perry, 133 S. Ct. 2652, 2659 (2013) (citing *In re* Marriage Cases, 183 P.3d 384 (2008)).

2. *Id.* California Gay Rights advocates began to spend millions of dollars in 2007 to promote supporting same-sex marriage. Bill Ainsworth, *Groups Jousting over Gay Rights in California*, U-T SAN DIEGO (Nov. 12, 2007), http://legacy.utsandiego.com/news/state/20071112-9999-1n12gayright.html, archived at http://perma.cc/BB82-T6FT. In the same year, religious conservatives launched a referendum to overturn gay rights legislation and laws in California. *Id.* This was the atmosphere in which Proposition 8 was introduced. Prior to 2008, the California Constitution allowed same-sex marriages. Perry v. Brown, 671 F.3d 1052, 1063 (9th Cir. 2012). The debate in California that led to Proposition 8 stretched back many years, including hotly contested litigation and elections. Jonathan Lloyd, *Supreme Court Clears Way for Same-Sex Marriage in California*, NBC S. CAL. (June 26, 2013), http://www.nbclosangeles.com/news/local/California-Same-Sex-Marriage-Prop-8-Supreme-Court-21182241.html, *archived at* http://perma.cc/54R2-PU6E. In 2000, Proposition 22 was approved, defining marriage as between a man and a woman; however, it was declared unconstitutional by the state supreme court in May 2008. *Id.* Prop. 8 was passed in November of that year. *Id.*

3. *Brown*, 671 F.3d at 1067 (citing CAL. CONST. art. 1, § 7.5).

4. *Id.*

5. *Id.* at 1068 (citing Strauss v. Horton, 207 P.3d 48, 122 (2009)).

Kristin Perry and Sandra Stier and Paul Katami and Jeffrey Zarrillo are two same-sex couples who wanted to get married in the state of California.[6] After the enactment of Prop. 8, they sued in federal district court, arguing that the law was unconstitutional.[7] The couples challenged Prop. 8 under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.[8] State officials decided not to defend Prop. 8 against this challenge but did perform their duties of enforcement, halting all same-sex marriages in California.[9] Under the California Election Code, the federal district court allowed the official proponents of Prop. 8 to defend it in lieu of the state government officials.[10] The district court declared that Prop. 8 violated the Equal Protection Clause and directed state officials not to enforce it any longer.[11] The official initiative proponents chose to appeal.[12]

After finding that the initiative's proponents had standing and hearing the case on the merits, the United States Court of Appeals for the Ninth Circuit affirmed the lower court's decision.[13] The Supreme Court granted certiorari, requesting briefs and oral argument on the issue of petitioners' standing under Article III, Section 2 of the United States Constitution.[14] The United States Supreme Court *held* that petitioners did not have standing to appeal the lower court's order, thus leaving in place the federal district court's holding that Prop. 8 is unconstitutional. *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2668 (2013).

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6. *Hollingsworth*, 133 S. Ct. at 2658.
7. *Id.* at 2660.
8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.* at 2660-61. In order to make its decision, the Ninth Circuit asked the California Supreme Court to address whether article II, section 8 of the California Constitution or any other provision of California law would grant to official proponents of an initiative either the right to assert their individual interest in the initiative's validity or the authority to declare the State's interest for the initiative's sake, which would allow them to defend Prop. 8 when public officials refuse to defend it on behalf of the state. *Id.* The California court provided:

> In a postelection challenge to a voter-approved initiative measure, the official proponents of the initiative are authorized under California law to appear and assert the state's interest in the initiative's validity and to appeal a judgment invalidating the measure when the public officials who ordinarily defend the measure or appeal such a judgment decline to do so.

Perry v. Brown, 265 P.3d 1002, 1007 (Cal. 2011). This response gave the Ninth Circuit authority to allow the petitioners to assert standing, and the Ninth Circuit allowed the state to determine who were to have standing under their sovereign laws. Perry v. Brown, 671 F.3d 1052, 1075 (9th Cir. 2012).

14. Hollingsworth v. Perry, 133 S. Ct. 2652, 2661 (2013).

II. BACKGROUND

Under Article III, the United States Constitution limits the federal courts to deciding only actual "cases" or "controversies."[15] In order to satisfy this requirement, the parties must have standing to invoke the power of the judiciary.[16] To prove standing, a litigant must show an injury that could observably be traced to the grievance at hand and could be "redressed by a favorable [judicial] decision."[17] A simple disagreement is insufficient on its own to meet the Article III requirement.[18] The Supreme Court recently clarified the doctrine of standing, stating that the doctrine is in place to prevent the federal courts from being used to "usurp the powers" of the executive and legislative branches.[19] Even in cases that are particularly important or controversial, the standing element must first be met before a court may proceed on the merits, regardless of convenience or efficiency.[20] A "generalized grievance" does not rise to a level sufficient to confer standing on a party.[21] In all cases, a court must determine if parties who seek appellate review have standing.

The Supreme Court has defined standing in many cases. In *Karcher v. May*, the Court indicated that a federal court should consider state law when determining who may assert state interests on behalf of the state.[22] The Court in *Karcher* allowed two state officials, Karcher and Orechio, to assert state interests in their official capacities when those who were named as defendants refused to defend the case.[23] Karcher and Orechio eventually lost their legislative posts but still filed an appeal of the United States Court of Appeals for the Third Circuit's decision.[24] The

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15. *Id.* (quoting U.S. CONST. art. III, § 2).
16. *Id.*
17. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992).
18. Diamond v. Charles, 476 U.S. 54, 62 (1986).
19. Clapper v. Amnesty Int'l USA, 133 S. Ct. 1138, 1146 (2013).
20. Raines v. Byrd, 521 U.S. 811, 820 (1997).
21. *Lujan*, 504 U.S. at 573-74 ("[R]aising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy."); Lance v. Coffman, 549 U.S. 437, 439 (2007) ("Our refusal to serve as a forum for generalized grievances has a lengthy pedigree."); Allen v. Wright, 468 U.S. 737, 754 (1984) ("[A]n asserted right to have the Government act in accordance with law is not sufficient, standing alone, to confer jurisdiction on a federal court."); Massachusetts v. Mellon, 262 U.S. 447, 488 (1923) ("The party who invokes the [judicial] power must be able to show . . . that he has sustained or is immediately in danger of sustaining some direct injury . . . and not merely that he suffers in some indefinite way in common with people generally.").
22. 484 U.S. 72, 81-82 (1987).
23. *Id.* at 75.
24. *Id.* at 76.

Supreme Court found that it was in Karcher and Orechio's official capacity to serve as respondents in the case, but once they lost their posts, they no longer had standing in federal court.[25] Thus, standing in such cases depends on the defendant's official position in the state government.

If state officials refuse to present a particular piece of legislation, California provides for initiative proponents to present that legislation directly to the people of the state.[26] The proponent of an initiative measure is defined in section 342 of the California Election Code as "the elector or electors who submit the text of a proposed initiative or referendum to the Attorney General with a request that he or she prepare a circulating title and summary of the chief purpose and points of the proposed measure."[27] The proponents of an initiative are responsible for all parts of the proposition, including gathering the requisite signatures to qualify the proposition for the ballot.[28] Nowhere in the state constitution, nor the statutory provisions relating to official proponents, is it expressly addressed whether official proponents are authorized to appear in court to defend a measure that they sponsored.[29] However, California courts at each level have allowed official proponents to appear in court on behalf of the ballot initiatives they sponsor, both before and after the election and with or without official state intervention and defense.[30]

Once a proposition has been approved by the electorate and becomes an enacted state constitutional amendment or statute, it is less clear whether an official proponent continues to have standing pertaining to any controversy that may arise surrounding that law.[31] Appellate courts in California have allowed official proponents to challenge laws after elections, even if the parties did not have the requisite personal stake in

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25. *Id.* at 81.
26. CAL. ELEC. CODE § 342 (West 2010).
27. *Id.*
28. *See* Perry v. Brown, 265 P.3d 1002, 1017 (Cal. 2011).
29. *Id.* at 1018.
30. *Id.*; *see, e.g.*, Hotel Emps. & Rest. Emps. Int'l Union v. Davis, 981 P.2d 990, 995 (Cal. 1999) (postelection challenge); Amwest Sur. Ins. Co. v. Wilson, 906 P.2d 1112, 1116 (Cal. 1995) (postelection challenge); 20th Century Ins. Co. v. Garamendi, 878 P.2d 566, 566 (Cal. 1994) (postelection challenge); Calfarm Ins. Co. v. Deukmejian, 771 P.2d 1247, 1247 (Cal. 1989) (postelection challenge); People *ex rel.* Deukmejian v. County of Mendocino, 683 P.2d 1150, 1150 (Cal. 1984) (postelection challenge); Citizens for Jobs & the Econ. v. County of Orange, 115 Cal. Rptr. 2d 90, 93-94 & n.2 (Ct. App. 2002) (postelection challenge); City of Westminster v. County of Orange, 251 Cal. Rptr. 511, 512 (Ct. App. 1988) (postelection challenge); Cmty. Health Ass'n v. Bd. of Supervisors, 194 Cal. Rptr. 557, 558 (Ct. App. 1983) (postelection challenge); Simac Design Inc. v. Alciati, 154 Cal. Rptr. 676, 679-80 (Ct. App. 1979) (postelection challenge).
31. *Perry*, 265 P.3d at 1020-21.

the measure.[32] Further, the California Supreme Court pointed out in *Perry v. Brown* that official proponents may serve as parties in cases where the public officials who are charged with defending a particular initiative choose not to defend the measure "with vigor."[33] This is to ensure that initiatives for which the people have fought will be properly defended and to safeguard the people's "right to exercise initiative power."[34] Thus, the California Supreme Court has interpreted the California Constitution, the California Election Code, and its prior case law as indicating that official proponents may intervene to assert the state's interest in the validity of an initiative and in subsequent appeals if public officials refuse to appeal the matter.[35]

However, the Supreme Court has held that the ability to challenge such initiatives is restricted by the fact that a litigant must have standing, requiring that litigants assert their own rights and interests. Especially in cases brought by special interest groups, the Court has held that the litigant must have experienced an injury in fact.[36] For example, in *Diamond v. Charles*, a group of physicians filed a legal challenge to an Illinois statute pertaining to the state's abortion laws.[37] Diamond was a pediatrician in Illinois with an alleged interest in defending the constitutionality of the antiabortion laws in question.[38] The United States Court of Appeals for the Seventh Circuit affirmed a permanent injunction against several specific provisions of the law.[39] Diamond appealed, and the state attorney general filed a "letter of interest" in support of Diamond's effort, explaining that the state's interest was generally in line with Diamond's position.[40] The Court rejected Diamond's claim for lack of standing, because he did not have an injury in fact.[41] Diamond lacked standing because he was connected to the controversy only through his convictions.[42] He was a doctor, a father, and a right-to-life activist, but none of these titles gave him an injury in fact.[43] Diamond's intention in continuing to appeal this legislation was strictly to

32. *Id.* (citing Bldg. Indus. Ass'n v. City of Camarillo, 718 P.2d 68, 75 (Cal. 1986)).
33. *Id.* at 1022.
34. *Id.*
35. *Id.* at 1024-25.
36. Powers v. Ohio, 499 U.S. 400, 410-11 (1991).
37. Diamond v. Charles, 476 U.S. 54, 57 (1986).
38. *Id.* at 56.
39. *Id.* at 61.
40. *Id.*
41. *Id.* at 65-66.
42. *Id.*
43. *Id.* at 66-67.

advance his own ideological interests, not because he suffered specific, recognizable injuries.[44]

III. COURT'S DECISION

In the noted case, the Court addressed whether the petitioners, the official initiative proponents, had standing to appeal the district court's decision.[45] According to the Court, the petitioners had no injury in fact because they were not ordered to do anything by the district court.[46] They had generalized grievances but no specific injuries as required by Article III.[47]

The Court found that though the petitioners do have a role in creating legislation through ballot initiatives, this role ends at the enactment of a law.[48] The Supreme Court did not follow the logic of the California Supreme Court pertaining to "duly enacted constitutional amendment[s] or statute[s]."[49] According to the Supreme Court, the California Election Code gives no direct authority or role to the petitioners following the enactment of an initiative.[50] The petitioners had no "personal stake" in this appeal beyond being "concerned bystanders."[51] The Court made it clear that unrelated outsiders who have no injury in fact or other official connection to a case will not have standing in federal court.[52]

Next, the Court addressed the petitioners' claim that they had the ability to step into the shoes of the state to assert the state's interest.[53] The Court looked to *Powers* and *Diamond* for support in dismissing this argument, stressing the importance of the petitioners' having an injury in fact.[54] If the state officials charged with enforcing the law refuse to defend it any further, only parties with an injury in fact may step in.[55] Having a passion for the subject is not an injury in fact, but is simply a grievance that cannot be litigated in federal court.

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44. *Id.*
45. Hollingsworth v. Perry, 133 S. Ct. 2652, 2661-68 (2013).
46. *Id.* at 2665.
47. *Id.* at 2666.
48. *Id.* at 2662-63.
49. *Id.* at 2663 (quoting Perry v. Brown, 265 P.3d 1002, 1021 (Cal. 2011)).
50. *Id.* at 2662-63.
51. *Id.* at 2663 (quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992); Diamond v. Charles, 476 U.S. 54, 62 (1986)).
52. *Id.* (quoting *Diamond*, 476 U.S. at 62).
53. *Id.* at 2663-64.
54. *Id.*
55. *Id.*

On the other hand, the Court explained, if an elected state official were willing to take up the defense, that official would have standing.[56] In the noted case, however, there was no state official willing to defend Prop. 8. As was noted in an amicus brief for Walter Dellinger, written to bring further clarity to the lack of standing issue, the ballot initiative proponents were not elected officials.[57] This brief argued, "[T]he proponents apparently have an un-elected appointment for an unspecified period of time as defenders of the initiative, however and to whatever extent they choose to defend it."[58] Unlike elected officials, the petitioners only had a loyalty to themselves and not the entire California electorate.[59] If future initiative proponents were allowed to step directly into the shoes of the state, the Court expressed concern that proponents would use purely ideological reasons to defend propositions.[60] The future of standing would favor ideology over injury in fact, and, unlike elected officials, proponents would not take into account the changing attitudes of the electorate.[61] Never before this case had the Court allowed private parties to defend the constitutionality of a law on behalf of the state, and it declined to do so for the purposes of the noted case.[62] By denying the petitioners standing, the Court vacated the Ninth Circuit's judgment and remanded the case with a directive to dismiss for lack of standing.[63] This directive effectively reinstated legally recognized same-sex marriages in the state of California.

Justice Kennedy's dissent disagreed with the majority's determination that the initiative proponents lost standing after the law was enacted.[64] The dissent recognized the California Supreme Court's acknowledgment that neither the Election Code nor the state constitution specifically grants initiative proponents the postelection right to defend a law. However, for sovereignty purposes, Kennedy proffered that it should be left to the state to interpret its own laws.[65]

Kennedy's dissent further argued that there should be little fear that the initiative proponents will abuse their post because: (1) defense requires a large number of proponents, (2) their posts and identities are

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56. *Id.* at 2664-65 (citing Karcher v. May, 484 U.S. 72, 81-82 (1987)).

57. Brief for Walter Dellinger as Amicus Curiae Supporting Respondents at 22-23, *Hollingsworth*, 133 S. Ct. 2652 (No. 12-144), 2013 WL 768643.

58. *Id.* at *23.

59. *Hollingsworth*, 133 S. Ct. at 2666-67.

60. *Id.* at 2667.

61. *Id.*

62. *Id.*

63. *Id.* at 2668.

64. *Id.* (Kennedy, J., dissenting).

65. *Id.* at 2669-70.

public, and (3) it takes a substantial commitment to be an official proponent defending the constitutionality of a law.[66] The dissent further argued that official proponents often know the purpose and the operations of the proposition best because of their extensive work in sponsoring the initiative.[67]

Further, the dissent agreed with the California Supreme Court's assertion that, if the state will not zealously defend a constitutional amendment that was passed by the electorate, the people should have a right to defend it.[68] The California Supreme Court found that the legislature intended for the initiative proponents to have the right to defend the state's "concrete, substantial, and continuing injury."[69] "There is no basis for this Court to set aside the California Supreme Court's determination of State law."[70] The dissent further provided that, in other states with similar laws, courts have upheld the right of the initiative's proponents to defend the constitutionality of the laws because the proponents are the most qualified individuals to do so.[71] Justice Kennedy fervently argued that this decision should be left to the states and that the California Supreme Court's interpretation of the law should have been upheld.[72]

The dissent also focused on the majority's finding that the initiative proponents did not have sufficient ties to the state government in order to have standing.[73] Kennedy suggested that the majority misinterpreted the purpose of the initiative proponents' position.[74] The initiative system was formed to ensure that the people are able to support their initiatives even if the state's elected officials are not prepared or willing to defend.[75] It is a mechanism that allows the people to participate more fully in their state government.[76] In Justice Kennedy's opinion, the entire process is undermined if the only people who are able to propose constitutional amendments or to defend the constitutionality of laws are the legislators and elected officials of the state.[77] Initiative proponents are the voice of

66. *Id.*
67. *Id.*
68. *Id.*
69. *Id.* at 2669.
70. *Id.* at 2670.
71. *Id.*
72. *Id.*
73. *Id.* at 2670-71.
74. *Id.*
75. *Id.*
76. *Id.* at 2671.
77. *Id.*

the people, according to the dissent, and the majority holding denied those individuals their voice.[78]

The dissent expressed fear that this decision will give a single district court's decision far too much weight.[79] The dissent argued that the purpose of the initiative process is for the people to have the ultimate voice in decisions about their state constitution, and the Court's decision undermines that purpose.[80]

IV. ANALYSIS

The decision in the noted case came as a disappointment to many for several reasons. The respondents sought a ruling striking down Prop. 8 on the grounds that it violated the Equal Protection Clause.[81] Many hoped that the "strict scrutiny" test that has been applied to cases involving racial discrimination would finally be extended to laws and decisions that discriminate against LGBTQ individuals in the United States.[82] The district court and the Ninth Circuit reached this conclusion and provided findings of fact that, if upheld by the Supreme Court, would have solidified the fate of anti-same-sex marriage laws throughout the United States.[83] The Supreme Court never reached these conclusions because the petitioners' lack of standing prevented the merits from being addressed. Ultimately, the lack of standing reenacted same-sex marriages in California, and that is something to be celebrated. Nonetheless, the Supreme Court's failure to declare the prohibition of same-sex marriage unconstitutional remains a disappointment to many.

The Court found that it was in both the state and the peoples' interests to maintain the ballot initiatives process. However, once the proposition became law the California Election Code and the California Constitution no longer granted rights to the initiative proponents.[84] The dissent in the noted case asserted that not allowing California to determine who can defend its laws is an attack on sovereignty and on the voice of the people.[85] It is well-founded that states must have freedom to run their elections and establish their own election procedures. However,

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78. *Id.*
79. *Id.* at 2674.
80. *Id.*
81. *Id.* at 2655-56 (majority opinion).
82. Paul Hogarth, *"Facts are Stubborn Things"—The Value of Judge Walker's Decision*, BEYOND CHRON (Aug. 5, 2010), http://www.beyondchron.org/news/index.php?itemid=8389#more, *archived at* http://perma.cc/X46V-Y3WE.
83. *Id.*
84. *Hollingsworth*, 133 S. Ct. at 2662.
85. *Id.* at 2668 (Kennedy, J., dissenting).

it is not good policy to allow the court system to be overrun by unelected, unofficial groups with "generalized grievances" against particular pieces of legislation or court decisions.[86]

The Court chose to take a literal reading of the California Constitution and the California Election Code when it rejected the notion that postelection constitutionality challenges could stand.[87] The California Supreme Court, in its analysis, admitted that the law is unclear about how postelection challenges should be handled; however, it cited many cases that seem to support allowing these types of challenges.[88] The Supreme Court disputed the relevance of most, if not all, of these cases, stating that almost every citation was either to a dissenting opinion or to issues not pertaining to standing, especially in federal court.[89] If standing was an issue in these cases, such as in *Karcher*, the parties were found to have standing because of official state authorization.[90] The ballot initiative proponents in the noted case, on the other hand, were never authorized by the state to defend its laws in federal court.[91]

Initiative proponents have an important role, and there is merit in the dissent's argument that the people should have a more direct part in state government if that is what the legislature envisioned for the ballot initiative process. However, the California Election Code and the California Constitution stop short of expressly giving initiative proponents the postelection right to defend laws in lieu of the state.[92] The legislature could have included that right in the law, but it did not. The Court reasonably feared that extending the proponents' positions beyond the election process would likely provide a perpetual forum to pursue their agenda.[93]

The idea that "general grievances" will not be sufficient to support finding that a party has standing has long been upheld by the Supreme Court.[94] It is clear that the petitioners in this case did not have an injury in fact, despite their arguments to the contrary. The state of California could have found that the petitioners had been injured by the declaration that Prop. 8 was unconstitutional. The state also could have determined that it was in its best interest to continue to defend Prop. 8's

86. *Id.* at 2662 (majority opinion).
87. *Id.*
88. Perry v. Brown, 265 P.3d 1002, 1018 (Cal. 2011).
89. *Hollingsworth*, 133 S. Ct. at 2665.
90. *Id.* at 2664-65.
91. *Id.*
92. *Perry*, 265 P.3d at 1021.
93. *Hollingsworth*, 133 S. Ct. at 2663-64.
94. Lujan v. Defenders of Wildlife, 504 U.S. 555, 573-74 (1992).

constitutionality. However, the state did not make these determinations. Vindicating a particular group's values is not reason enough to grant standing in federal court.[95]

Giving the people a voice in court on issues beyond the will of elected officials may be beneficial, but the current process vests too much power in initiative proponents. An amicus brief from the noted case makes the ultimate point that these initiative proponents are unelected and have no constituents.[96] If the state of California wants to allow initiative proponents to take the burden of defending the constitutionality of laws off of the state, then further guidelines would need to be codified. Such guidelines would include their appointment as official representatives of the state, the capacity in which they may serve, how long they may serve, what their qualifications must be, and so on.

Many court-watchers speculated as to whether the Supreme Court would proceed past the standing issue and present a finding on the merits. Judge Vaughn Walker presented an eloquent argument in favor of the application of strict scrutiny to laws that discriminate based on sexual orientation. He argued that marriage is a fundamental right.[97] Fundamental rights cannot be denied to United States citizens without passing strict scrutiny.[98] Prop. 8, according to Judge Walker, failed the strict scrutiny test and was thus unconstitutional.[99] Strict scrutiny requires regulation to be narrowly tailored to achieve a compelling government interest if it discriminates against a suspect class.[100] There was no compelling reason here. Instead, there was only a grievance and barely veiled bigotry.

There is much debate surrounding the issue of whether gay and lesbian individuals should be a protected class. Some would argue that sexual orientation does not rise to the level of historical discrimination that racial minorities have faced, but Judge Walker and some proponents of same-sex marriage disagree. What is most compelling about Judge Walker's opinion is that he took the time to not only analyze why strict scrutiny should be applied to laws directed at sexual orientation (which would render Prop. 8 unconstitutional), but he also argued that the lower rational basis analysis would reach the same conclusion.

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95. Diamond v. Charles, 476 U.S. 54, 62 (1986).
96. Brief for Walter Dellinger as Amicus Curiae Supporting Respondents, *supra* note 57.
97. Perry v. Schwarzenegger, 704 F. Supp. 2d 921, 991 (N.D. Cal. 2010).
98. *Id.* at 995.
99. *Id.*
100. *Id.* at 997.

A rational basis analysis is a much lower standard that only requires proof that the law is rationally related to a legitimate state interest. Judge Walker's analysis makes it clear that there is no rational basis for denying the fundamental right of marriage to citizens of California.[101] By limiting same-sex couples to domestic partnerships, California denies those couples the right to decide how they want to form their relationships and their families. All people deserve the choice to marry, to form a domestic partnership, or not to seek legal recognition at all. The overturning of Prop. 8 finally allowed this in California; this is a small step, but one that opens the door for hope across the nation.

The district court in the noted case was the first court to hear a full trial and issue a full opinion on the issue of same-sex marriage laws in the United States.[102] Judge Walker's opinion presented answers to eighty findings of fact.[103] In the future, when other states tackle this issue, they will not be looking at an issue of first impression. They will have positive guidance from a judge tackling marriage's relationship to the United States Constitution.

Despite the disappointment many people felt when the opinion was read on June 26, 2013, the future of the same-sex marriage debate looks bright. If the trend continues and more states allow same-sex marriage, or if the correct case finds its way to the Supreme Court, all United States citizens may finally be allowed to define their relationships as they wish. One more state has moved toward equality, more parents and children are able to freely define their families, and the United States has taken one more step away from bigotry.

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101. *Id.* at 997-98.

102. Hogarth, *supra* note 82.

103. *Id.*

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