

California high court says backers of Prop 8 have standing to appeal ruling

SAN FRANCISCO - The faith-based groups that sponsored Proposition 8, the state's 2008 voter-approved ban on same-sex marriage, have the right to appeal a federal judge's 2010 ruling the ban is unconstitutional, the state's high court said.

The California Supreme Court issued a unanimous opinion Nov. 17.

Catholics are among the backers of Prop 8 who appealed to the 9th U.S. Circuit Court of Appeals the ruling that it discriminates on the basis of sexual orientation and gender. As the circuit court took up the issue, its judges needed to resolve a question: Do the backers of the proposition have the legal right to defend it in court when two elected officials, the former governor and the former attorney general, refused to do so?

The appellate judges put the case on hold and asked the California Supreme Court to decide the matter. Chief Justice Tani Gorre Cantil-Sakauye, writing for the court, said that "it is essential to the integrity of the initiative process ... that there be someone to assert the state's interests in an initiative's validity on behalf of the people when the public officials who normally assert that interest decline to do so."

That was a victory for ProtectMarriage.com as a proponent of Prop 8, and it allows the 9th Circuit now to resolve the critical question in the case - whether or not Prop 8 is constitutional - although it is expected the U.S. Supreme Court will have the final word.

Andy Pugno, general counsel of ProtectMarriage.com, said: "This ruling is a huge disaster for the homosexual marriage extremists. The court totally rejected their demands that their lawsuit to invalidate Proposition 8 should win by default with no defense. Their entire strategy relied on finding a biased judge and keeping the voters completely unrepresented. Today, that all crumbled before their eyes."

He added, "(The) decision is a critical step in our three-year battle to uphold marriage between a man and a woman."

The California Catholic Conference, the public policy arm of the state's bishops on legislative and social matters, said: "The CCC supports the decision of the voters of California to pass Prop 8 in November 2008, thereby placing in our state's constitution the definition of marriage as the union of a woman and a man. By their vote they recognized that marriage is good for children and best for our state."

Cantil-Sakauye wrote, "Even though the official proponents of an initiative measure are not public officials the role they play in asserting the state's interest in the validity of an initiative measure in this judicial setting does not threaten the democratic process or the proper governance of the state, but, on the contrary, serves to safeguard the unique elements and integrity of the initiative process."