



## Marriage Equality at the U.S. Supreme Court

### Hollingsworth v. Perry (Proposition 8)

On March 26, the Supreme Court will hear oral arguments in a case challenging the constitutionality of California's Proposition 8, a ballot measure that repealed marriage for same-sex couples in California by amending the state constitution to define marriage as between one man and one woman. Specifically, the court will decide two questions:

- (1) Does Proposition 8 violate the Equal Protection Clause of the U.S. Constitution?
- (2) Do Proposition 8 supporters have legal standing to bring the case forward in the first place?

### The story behind Hollingsworth v. Perry

The case was brought on behalf of two same-sex couples, Kristin Perry and Sandra Stier, and Paul Katami and Jeffrey Zarrillo, who wanted to get married in California but were not allowed to under Proposition 8. The attorneys for the case, David Boies and Theodore Olsen, argued that California's Proposition 8 deprived these couples of equal protection under the law upon their request for a marriage license. The State of California, as well as various elected officials in the state, declined to defend the new California constitutional provision. Therefore, proponents of Proposition 8, ProtectMarriage.com, led by Dennis Hollingsworth, sought to intervene as defendants, filling the State's void.

A federal district court and the Ninth Circuit Court of Appeals have both found Proposition 8 to be unconstitutional.

### History and Timeline

- Feb. 12, 2004:** San Francisco Mayor Gavin Newsom instructs city officials to issue marriage licenses to same-sex couples. Over four weeks, nearly 4,000 same-sex couples received marriage licenses.
- Mar. 11, 2004:** The California Supreme Court unanimously orders San Francisco to stop marrying same-sex couples and announces that it will rule on the legality of the city's actions within the next few months.
- Aug. 12, 2004:** The California Supreme Court rules unanimously that San Francisco's mayor overstepped his authority by issuing same-sex marriage licenses. In a 5-2 vote, the court declares the 4,000 marriages of gay and lesbian couples that had been sanctioned by the city void.
- Sept. 29, 2005:** California Governor Arnold Schwarzenegger vetoes a marriage equality bill after it passed the states Senate and Assembly.
- Oct. 12, 2007:** Governor Schwarzenegger again vetoes a bill that would legalize marriage equality.
- May 15, 2008:** The California Supreme Court rules that the State's Constitution protects a fundamental "right to marry" that extends equally to same-sex couples. Thousands of same-sex couples begin to wed in California.
- Nov. 4, 2008:** California voters pass Proposition 8 and strip thousands of same-sex couples of the rights and responsibilities of marriage they were afforded since May.
- May 26, 2009:** The California Supreme Court upholds Proposition 8's ban on marriage equality, but also rules that same-sex couples who wed before the election will continue to be married under state law.
- Aug. 4, 2010:** U.S. District Chief Judge Vaughn R. Walker, a federal judge in San Francisco, rules that Proposition 8 is unconstitutional.
- Feb. 7, 2012:** A federal appeals court affirms Walker's decision striking down California's ban on marriage for same-sex couples, clearing the way for the U.S. Supreme Court to rule on the freedom to marry.
- May 9, 2012:** President Obama becomes the first sitting president to support marriage equality.
- Dec. 7, 2012:** The U.S. Supreme Court agrees to hear the case.



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### **Windsor v. United States (Defense of Marriage Act)**

On March 27, the U.S. Supreme Court will hear oral arguments in the case *Windsor v. U.S.*, a constitutional challenge to Section 3 of the Defense of Marriage Act (DOMA), which defines marriage as only a legal union between one man and one woman. The Court will decide whether Section 3 of DOMA violates equal protection by denying married same-sex couples recognition under federal law. Under the current law, thousands of federal benefits afforded to opposite-sex married couples are denied to same-sex married couples.

DOMA has been declared unconstitutional by eight federal courts, including the First and Second Circuit Courts of Appeal. A number of other DOMA challenges have been put on hold pending the outcome of this case.

### **The Story behind Windsor v. U.S.**

Edie Windsor, a resident of New York, had legally married Thea Spyer in Canada in 2007 after the two had lived together as a couple in New York for over 40 years. Two years after marrying Windsor, Spyer passed away leaving her estate to her wife. Windsor was forced to pay \$363,000 in federal taxes on Spyer's inheritance. Had their marriage been accorded the same status under federal law as a different-sex marriage, Windsor would have paid \$0 in federal taxes. The lawsuit argues that DOMA violates the equal protection guarantee of the U.S. Constitution by recognizing and honoring marriages of different-sex couples but not honoring the legal marriages of same-sex couples. In the case, Windsor seeks a refund on the taxes she was forced to pay, as well as federal recognition of her legally valid marriage. The outcome of the case will determine the constitutionality of Section 3 of the Defense of Marriage Act.

### **History and Timeline**

- Sept. 21, 1996:** President Clinton signs the Defense of Marriage Act into law.
- Nov. 9, 2010:** The ACLU and Edie Windsor file suit in the U.S. District Court for the Southern District of New York.
- Feb. 23, 2011:** The Obama Administration announces it would no longer defend Section 3 of DOMA because it found the law to be unconstitutional.
- Mar. 4, 2011:** The Bipartisan Legal Advocacy Group, controlled by House Republicans, chooses to intervene in the case and defend Section 3 of DOMA since the Department of Justice would no longer defend the law.
- May 2, 2011:** President Clinton supports marriage equality for all, and the repeal of DOMA.
- May 9, 2012:** President Obama becomes the first sitting president to support marriage equality.
- June 6, 2012:** U.S. District Court Judge Barbara Jones rules Section 3 of DOMA unconstitutional.
- June 14, 2012:** The Bipartisan Legal Advisory Group appeals Judge Jones' ruling, continuing to defend DOMA in court.
- July 16, 2012:** Edith Windsor asks the U.S. Supreme Court to hear her case.
- Oct. 18, 2012:** The United States Court of Appeals for the Second Circuit in New York upholds Judge Jones' ruling, deciding that Section 3 of DOMA is unconstitutional.
- Dec. 7, 2012:** The U.S. Supreme Court announces that it will review *Windsor v. United States*.