

Lighthouse in the Fog – **Ninth Circuit Court Rules Against Marriage**



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On Tuesday, in a 2–1 decision, the **U.S. Court of Appeals for the Ninth Circuit** [ruled](#) against [Proposition 8](#), the California ballot measure that defined marriage in the California constitution as one man and one woman.

The appeals court decision upholds the decision of the lower court, which struck down Prop 8 as unconstitutional. According to the court of appeals, there was no “legitimate reason” for California voters to enact Prop 8.

In contrast to the trial court, the appeals court decision bases its decision on very narrow grounds that might not apply in other cases not involving the unique facts of Prop 8.

The court states:

Whether under the Constitution same-sex couples may ever be denied the right to marry...is an important and highly controversial question.... We need not and do not answer the broader question in this case, however... [because the] unique and strictly limited effect of Proposition 8 allows us to address the amendment’s constitutionality on narrow grounds.

However, the panel’s “narrow” reasoning is little more than an activist house of cards. Their ruling is also lengthy, bearing [additional analysis](#).

According to one legal scholar, [“the case now has a seemingly clear path to the Supreme Court.”](#) If the importance of the legal question wasn't sufficient to guarantee that, consider that the decision was authored by liberal activist **Judge Stephen Reinhardt**, who has done much to contribute to the Ninth Circuit's reputation for high reversal rates by the Supreme Court. Indeed, it has been frequently reported that Judge Reinhardt is so brazen about his lawless activism that he has bragged that the Supreme Court “can't catch ‘em all”—“them” being his legally wayward opinions.

As the Ninth Circuit writes, the question of how to define marriage “is currently a matter of great debate in our nation.” Unfortunately, instead of permitting that debate to occur through the political process, decisions like the one issued today remove the question from voters in favor of judicially imposed social policy.

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