



Scott Shafer's Analysis of Harris' Prop 8 Request

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Attorney General Kamala Harris is [asking](#) the 9th Circuit Court of Appeals to lift the stay on Judge Vaughn Walker's decision striking down Prop. 8 last year. In unusually emotional language for a state's "top cop", Harris's court filing reads, in part: "For 846 days Proposition 8 has denied equality under law to gay and lesbian couples. Each and every one of those days, same-sex couples have been denied their right to convene loved ones and friends to celebrate marriages sanctioned and protected by California law. Each one of those days, loved ones have been lost, moments have been missed, and justice has been denied. The preconditions for a stay are lacking on this record. The stay should be vacated."

Her request follows that of the legal team representing two same sex couples in the Prop. 8 case (Perry v. Schwarzenegger) and comes on the heels of President Obama's Justice Department declaring the Defense of Marriage Act (DOMA) unconstitutional. It's also a personal issue for A.G. Harris: Her brother-in-law Tony West is married to her sister Maya and is Assistant A.G. for Civil Rights at the U.S. DOJ.

As for chances of success in dropping the stay? Don't bet on it. The 9th Circuit is treading carefully on this one --as evidenced by asking the CA Supreme Court to weigh in on a central question of legal standing. Prop. 8 backers would appeal lifting of the stay to the U.S. Supreme Court in a New York minute. The Supremes practically make a hobby out of reversing the Ninth ... so it's unlikely they'll test them on this. Besides -- if the stay is lifted, more couples get married and Prop. 8 is ultimately upheld, those couples would then be "unmarried" again. Talk about emotional roller coasters!