

In 2008, the Supreme Court of California found that state statutes limiting marriage only between opposite-sex couples violated California's Constitution. Following the decision, same-sex couples were allowed to marry. A firestorm of controversy ensued, which resulted in Proposition 8, a California ballot initiative approved by the voters, which restored the opposite-sex limitation on marriage with a constitutional amendment. In *Perry*, Justice Reinhardt's narrowly-tailored decision affirmed the district court's judgment invalidating Proposition 8, and relied on Supreme Court Justice Anthony Kennedy's reasoning in the 1996 case, *Romer v. Evans*, to find that, after the gay community won marriage equality, a law rescinding that right was unconstitutional.

During the trial, several notable expert witnesses were called: American history scholar Nancy Cott; social historian George Chauncey, Professor Gregory M. Herek, and relationship psychologist Anne Peplau.

- Nancy Cott's testimony was used to show how marriage has historically been used "punitively" to demean disfavored groups, how the legally enshrined gender roles in marriage had been disestablished during the 20th century, and how the changes in the institution of marriage had mainly involved "shedding inequalities", which she said strengthens marriage.
- George Chauncey's testimony described how previous government campaigns had attempted "to demonize gay people as dangerous sexual deviants and child molesters." He then analyzed campaign material from the Yes on 8 campaign to show how they played upon the same message.
- Gregory Herek contended that "structural stigma" in the form of laws like Proposition 8 directly encourages social stigma, harassment, and violence against LGBT people. He also testified that there is no evidence "conversion therapy" is effective in changing a person's sexuality, and that it "sends a harmful and false message to young people that homosexuality is a disorder", directly leading to more discrimination.
- Anne Peplau argued that individuals gain physical, psychological, and social benefits from being married. Peplau also argued that the quality and stability of same-sex relationships are similar to those of heterosexual relationships and that permitting same-sex couples to marry will not harm the institution of marriage in any way.