



For immediate release

Contact info: Robert S. Chang
206.398.4025
changro@seattleu.edu

Korematsu Center joins civil rights organizations on amicus brief in support of marriage equality in *Perry v. Schwarzenegger*

Seattle University School of Law's Fred T. Korematsu Center for Law and Equality joined twelve other organizations, including the Asian American Justice Center and the Mexican American Defense and Legal Education Fund, on an amicus brief this week before the 9th Circuit United States Court of Appeals in support of marriage equality.

Perry v. Schwarzenegger involves the federal constitutionality of Proposition 8, a 2008 California ballot initiative that prohibited the recognition of same-sex marriages in California. In August 2010, Judge Vaughn Walker ruled that Proposition 8 violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution.

The amicus brief the Korematsu Center joined examined the issue of whether the long-held animus and discrimination directed against gay men and lesbians prevent this group from seeking recourse through traditional political processes so as to warrant heightened judicial scrutiny. Specifically this brief argued that Proposition 8 should be subject to heightened review because gay men and lesbians, like other protected minority groups, are “politically powerless.”

Though political powerlessness has never been held to be an essential element that must be satisfied in order for heightened scrutiny to apply, political powerlessness is one of many “traditional indicia of suspectness” used to determine the level of scrutiny applied by courts in evaluating the constitutionality of disparate government treatment of minorities. *See San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 28 (1973). Political powerlessness rests on the fundamental notion that deep-seated and longstanding prejudices towards certain groups impede their ability to rely on political processes. *See United States v. Carolene Prod. Co.*, 304 U.S. 144, 152 n.4 (1938).

The brief examined the nature, history, and circumstances of the disparate treatment and prejudice against minorities to demonstrate the extent to which political processes fail to protect minorities from disparate treatment. Korematsu Center director Robert Chang notes: “We thought this brief presented arguments that are becoming increasingly important to counter the way that the referendum or initiative process has been used to roll back the advances of the civil rights movement.”

The [Korematsu Center for Law and Equality](#) works to advance justice through knowledge and advocacy. We note that the Korematsu Center does not, in this brief or otherwise, represent the official views of Seattle University.

The brief may be found here: <http://www.law.seattleu.edu/Documents/korematsu/perrybrief.pdf>

FRED T. KOREMATSU CENTER FOR LAW & EQUALITY