

## Syllabus

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**SUPREME COURT OF THE UNITED STATES**

## Syllabus

HOLLINGSWORTH ET AL. *v.* PERRY ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

No. 12–144. Argued March 26, 2013—Decided June 26, 2013

After the California Supreme Court held that limiting marriage to opposite-sex couples violated the California Constitution, state voters passed a ballot initiative known as Proposition 8, amending the State Constitution to define marriage as a union between a man and a woman. Respondents, same-sex couples who wish to marry, filed suit in federal court, challenging Proposition 8 under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and naming as defendants California’s Governor and other state and local officials responsible for enforcing California’s marriage laws. The officials refused to defend the law, so the District Court allowed petitioners—the initiative’s official proponents—to intervene to defend it. After a bench trial, the court declared Proposition 8 unconstitutional and enjoined the public officials named as defendants from enforcing the law. Those officials elected not to appeal, but petitioners did. The Ninth Circuit certified a question to the California Supreme Court: whether official proponents of a ballot initiative have authority to assert the State’s interest in defending the constitutionality of the initiative when public officials refuse to do so. After the California Supreme Court answered in the affirmative, the Ninth Circuit concluded that petitioners had standing under federal law to defend Proposition 8’s constitutionality. On the merits, the court affirmed the District Court’s order.

*Held:* Petitioners did not have standing to appeal the District Court’s order. Pp. 5–17.

(a) Article III of the Constitution confines the judicial power of federal courts to deciding actual “Cases” or “Controversies.” §2. One essential aspect of this requirement is that any person invoking the power of a federal court must demonstrate standing to do so. In oth-

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er words, the litigant must seek a remedy for a personal and tangible harm. Although most standing cases consider whether a plaintiff has satisfied the requirement when filing suit, Article III demands that an “actual controversy” persist throughout all stages of litigation. *Already, LLC v. Nike, Inc.*, 568 U. S. \_\_\_, \_\_\_. Standing “must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance.” *Arizonans for Official English v. Arizona*, 520 U. S. 43, 64. The parties do not contest that respondents had standing to initiate this case against the California officials responsible for enforcing Proposition 8. But once the District Court issued its order, respondents no longer had any injury to redress, and the state officials chose not to appeal. The only individuals who sought to appeal were petitioners, who had intervened in the District Court, but they had not been ordered to do or refrain from doing anything. Their only interest was to vindicate the constitutional validity of a generally applicable California law. As this Court has repeatedly held, such a “generalized grievance”—no matter how sincere—is insufficient to confer standing. See *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 573–574. Petitioners claim that the California Constitution and election laws give them a “‘unique,’ ‘special,’ and ‘distinct’ role in the initiative process,” Reply Brief 5, but that is only true during the process of enacting the law. Once Proposition 8 was approved, it became a duly enacted constitutional amendment. Petitioners have no role—special or otherwise—in its enforcement. They therefore have no “personal stake” in defending its enforcement that is distinguishable from the general interest of every California citizen. No matter how deeply committed petitioners may be to upholding Proposition 8, that is not a particularized interest sufficient to create a case or controversy under Article III. Pp. 5–9.

(b) Petitioners’ arguments to the contrary are unpersuasive. Pp. 9–16.

(1) They claim that they may assert the State’s interest on the State’s behalf, but it is a “fundamental restriction on our authority” that “[i]n the ordinary course, a litigant . . . cannot rest a claim to relief on the legal rights or interests of third parties.” *Powers v. Ohio*, 499 U. S. 400, 410. In *Diamond v. Charles*, 476 U. S. 54, for example, a pediatrician engaged in private practice was not permitted to defend the constitutionality of Illinois’ abortion law after the State chose not to appeal an adverse ruling. The state attorney general’s “letter of interest,” explaining that the State’s interest in the proceeding was “‘essentially co-terminous with’” Diamond’s position, *id.*, at 61, was insufficient, since Diamond was unable to assert an injury of his own, *id.*, at 65. Pp. 9–10.

(2) Petitioners contend the California Supreme Court’s determi-

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nation that they were authorized under California law to assert the State's interest in the validity of Proposition 8 means that they "need no more show a personal injury, separate from the State's indisputable interest in the validity of its law, than would California's Attorney General or did the legislative leaders held to have standing in *Karcher v. May*, 484 U. S. 72 (1987)." Reply Brief 6. But far from supporting petitioners' standing, *Karcher* is compelling precedent against it. In that case, after the New Jersey attorney general refused to defend the constitutionality of a state law, leaders of New Jersey's Legislature were permitted to appear, in their official capacities, in the District Court and Court of Appeals to defend the law. What is significant about *Karcher*, however, is what happened after the Court of Appeals decision. The legislators lost their leadership positions, but nevertheless sought to appeal to this Court. The Court held that they could not do so. Although they could participate in the lawsuit in their official capacities as presiding officers of the legislature, as soon as they lost that capacity, they lost standing. *Id.*, at 81. Petitioners here hold no office and have always participated in this litigation solely as private parties. Pp. 10–13.

(3) Nor is support found in dicta in *Arizonans for Official English v. Arizona*, *supra*. There, in expressing "grave doubts" about the standing of ballot initiative sponsors to defend the constitutionality of an Arizona initiative, the Court noted that it was "aware of no Arizona law appointing initiative sponsors as agents of the people of Arizona to defend, in lieu of public officials, the constitutionality of initiatives made law of the State." *Id.*, at 65. Petitioners argue that, by virtue of the California Supreme Court's decision, they *are* authorized to act as "agents of the people of California." Brief for Petitioners 15. But that Court never described petitioners as "agents of the people." All the California Supreme Court's decision stands for is that, so far as California is concerned, petitioners may "assert legal arguments in defense of the state's interest in the validity of the initiative measure" in federal court. 628 F. 3d 1191, 1193. That interest is by definition a generalized one, and it is precisely because proponents assert such an interest that they lack standing under this Court's precedents. Petitioners are also plainly not agents of the State. As an initial matter, petitioners' newfound claim of agency is inconsistent with their representations to the District Court, where they claimed to represent their *own* interests as official proponents. More to the point, the basic features of an agency relationship are missing here: Petitioners are not subject to the control of any principal, and they owe no fiduciary obligation to anyone. As one *amicus* puts it, "the proponents apparently have an unelected appointment for an unspecified period of time as defenders of the initiative, however and to

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whatever extent they choose to defend it.” Brief for Walter Dellinger 23. Pp. 13–16.

(c) The Court does not question California’s sovereign right to maintain an initiative process, or the right of initiative proponents to defend their initiatives in California courts. But standing in federal court is a question of federal law, not state law. No matter its reasons, the fact that a State thinks a private party should have standing to seek relief for a generalized grievance cannot override this Court’s settled law to the contrary. Article III’s requirement that a party invoking the jurisdiction of a federal court seek relief for a personal, particularized injury serves vital interests going to the role of the Judiciary in the federal system of separated powers. States cannot alter that role simply by issuing to private parties who otherwise lack standing a ticket to the federal courthouse. Pp. 16–17.

671 F. 3d 1052, vacated and remanded.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, GINSBURG, BREYER, and KAGAN, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which THOMAS, ALITO, and SOTOMAYOR, JJ., joined.

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

**SUPREME COURT OF THE UNITED STATES**

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No. 12–144

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DENNIS HOLLINGSWORTH, ET AL., PETITIONERS *v.*  
KRISTIN M. PERRY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT

[June 26, 2013]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

The public is currently engaged in an active political debate over whether same-sex couples should be allowed to marry. That question has also given rise to litigation. In this case, petitioners, who oppose same-sex marriage, ask us to decide whether the Equal Protection Clause “prohibits the State of California from defining marriage as the union of a man and a woman.” Pet. for Cert. i. Respondents, same-sex couples who wish to marry, view the issue in somewhat different terms: For them, it is whether California—having previously recognized the right of same-sex couples to marry—may reverse that decision through a referendum.

Federal courts have authority under the Constitution to answer such questions only if necessary to do so in the course of deciding an actual “case” or “controversy.” As used in the Constitution, those words do not include every sort of dispute, but only those “historically viewed as capable of resolution through the judicial process.” *Flast v. Cohen*, 392 U. S. 83, 95 (1968). This is an essential

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limit on our power: It ensures that we act *as judges*, and do not engage in policymaking properly left to elected representatives.

For there to be such a case or controversy, it is not enough that the party invoking the power of the court have a keen interest in the issue. That party must also have “standing,” which requires, among other things, that it have suffered a concrete and particularized injury. Because we find that petitioners do not have standing, we have no authority to decide this case on the merits, and neither did the Ninth Circuit.

## I

In 2008, the California Supreme Court held that limiting the official designation of marriage to opposite-sex couples violated the equal protection clause of the California Constitution. *In re Marriage Cases*, 43 Cal. 4th 757, 183 P. 3d 384. Later that year, California voters passed the ballot initiative at the center of this dispute, known as Proposition 8. That proposition amended the California Constitution to provide that “[o]nly marriage between a man and a woman is valid or recognized in California.” Cal. Const., Art. I, §7.5. Shortly thereafter, the California Supreme Court rejected a procedural challenge to the amendment, and held that the Proposition was properly enacted under California law. *Strauss v. Horton*, 46 Cal. 4th 364, 474–475, 207 P. 3d 48, 122 (2009).

According to the California Supreme Court, Proposition 8 created a “narrow and limited exception” to the state constitutional rights otherwise guaranteed to same-sex couples. *Id.*, at 388, 207 P. 3d, at 61. Under California law, same-sex couples have a right to enter into relationships recognized by the State as “domestic partnerships,” which carry “the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law . . . as are granted to and