

# Federal judge in Prop 8 case has mixed LGBT record

*EDGE Media Network, June 16, 2009*

The Alliance Defense Fund, which is seeking to argue in support of Prop 8 in federal court next month, has a well-known and predictable track record against LGBT rights. That of the judge who will hear initial arguments, however, is something of a mixed bag.

District Court Judge Vaughan R. Walker was involved in the lawsuit against the Gay Games in 1982. He more recently ruled in favor of an Oakland suit to take down a sign that was seen as creating a hostile work place for LGBT city workers. Theodore Olsen and David Boies, the attorneys who filed suit against Prop 8 in federal court, will ask Walker for a preliminary injunction to suspend Prop 8.

Walker, 65 and unmarried, is a native of Illinois with a bachelor's degree from the University of Michigan and a law degree from Stanford. Then-President George H. W. Bush appointed Walker to the Northern District of California in 1989. He became its chief judge in 2004 after he succeeded Marilyn Hall Patel.

He has a reputation as an independent conservative, but his nomination to the bench in 1988 ran into political opposition. As a member of the law firm Pillsbury, Madison & Sutro, Walker had represented the United States Olympic Committee in a lawsuit in 1982 to block the use of the word "Olympics" by organizers of the first Gay Games in San Francisco. And while confirmation hearings were being held, he was still swimming at a club criticized for its men-only membership policy.

The lawsuit reached the Supreme Court in 1986, which just weeks earlier had delivered a heavy setback to the LGBT rights movement in *Bowers vs. Hardwick*. According to the [Entertainment and Sports Law Journal](#), when Walker was asked why the Gay Games could not use the word "Olympic" while everyone else from the Police Olympics to the Armenian Olympics was doing so without challenge, he said, "They are not a suitable group."

In 2007, Walker was asked to decide a case concerning the posting of a flier a lesbian city worker in Oakland thought created a hostile environment for LGBT employees. The flyer, posted by the Good News Employee Association, described itself as a "forum for people of Faith to express their views on contemporary issues of the day. With respect for the natural family, marriage and family values." Twenty-five years after describing the LGBT community as "not suitable," Walker **ruled in favor** of the city's removal of the sign.

The decision was enough to move conservative pundit [George Will](#) to write, "Overturning the Ninth Circuit is steady work for the U.S. Supreme Court."

In a 1996 decision, Walker ruled a woman could not be denied life insurance after her husband tested positive for HIV. In a 2003 decision, Walker ordered a man convicted of mail theft to spend 100 hours standing outside a San Francisco post office wearing a sign that said "I have stolen mail. This is my punishment."

In other recent cases, Walker ruled against the Bush administration's attempt to block the takeover by Oracle of PeopleSoft Corp., clashed with the Bush and Obama administrations for their refusal to share classified documents with an Islamic group that says it believes it was wiretapped illegally, ruled against state attempts to block viewing of death sentence executions at San Quentin, ruled against logging protesters who protested the use of pepper spray against them (overturned later on appeal), and approved the takeover of the *San Francisco Chronicle* by the Hearst Corporation.

At the time the *Chronicle* takeover bid was being considered, San Francisco attorney Ephraim Margolin told the newspaper Walker's ruling consistently favored limiting federal power. In that case, Walker's wording that the Justice Department's eventual approval of the transaction appeared to be "political favoritism masquerading as law enforcement" was protested by the department.

"He's an exciting judge," Margolin said. "He's curious. You see a person approaching cases in novel ways. Walker truly enjoys being a judge."

San Francisco criminal attorney Jerrold Ladar agreed.

"He can't be pigeonholed with labels," he told the *Chronicle*.