

# THE PROP 8 ORAL ARGUMENTS BEFORE THE SUPREME COURT

A momentous morning in the Supreme Court. All the work, analysis, speculation, briefing and lobbying culminated in an oral argument in *Hollingsworth v. Perry*



lasting nearly an hour and a half – half an hour over the scheduled time. There are a lot of reports and opinions floating around about what transpired.

Here is Tom Goldstein

Here is Reuters led by Lawrence Hurley and David Ingram

Here is Lyle Denniston of SCOTUSBlog

Here is USA Today

Here is Huffington Post's Mike Sacks with a video report

Here is Ryan Reilly and Mike Sacks with a written report at HuffPost

Suffice it to say, we do not know a heck of a lot after oral arguments than we did right before them. The full range of decision is on the table. However, there were certainly some hints given. Scalia and Alito are very hostile, and Thomas is almost certainly with them in that regard although he once again stood mute. Ginsburg, Kagan and Sotomayor seemed receptive to the Ted Olson's arguments. Breyer oddly quiet

and hard to read. As is so often the case, that left Anthony Kennedy in effective control of the balance.

If Kennedy's tenor at argument is any guide, and it isn't necessarily, he is unlikely to sign on to a broad ruling. In fact he may be struggling with standing, but that is very hard to read. Several commenters I have seen interpreted Kennedy's questions as having a real problem with standing and signaling a possibility of punting the case on that basis. From what I have read so far, I wouldn't say that...and neither does Adam Serwer, who was present at argument.

So, in short, I would summarize thusly: Standing is a bigger issue than I had hoped, and there is more resistance to a broad ruling than I had hoped. But the game is still on. Remember when Jeff Toobin's train wreck/plane wreck take after the ACA oral arguments; you just don't know and cannot tell.

I will likely be back later after analysis of the pertinent material. For now, let me leave you with that material and media so you too can hear and see the groundbreaking day in the Supreme Court:

Here is the full transcript of the oral arguments

Here is the audio of the proceedings

Enjoy, and I look forward to discussing this! And, again, there will be updates to this post throughout the day, so keep checking for them.

[As always on these Prop 8 posts, the absolutely incredible graphic, perfect for the significance and emotion of the *Perry* Prop 8 case, and the decision to grant marriage equality to *all citizens* without bias or discrimination, is by Mirko Ilić. Please visit Mirko and check out his stock of work.]