

DR. WILLIAM TAM'S UNDERSTANDING OF "THE GAY AGENDA" AND VAUGHN WALKER'S PROP 8 DECISION

There was a fair amount of attention to Vaughn Walker's scathing dismissal of professional anti-gay "scholar" David Blankenhorn's testimony in the Prop 8 trial.

The court now determines that Blankenhorn's testimony constitutes inadmissible opinion testimony that should be given essentially no weight.

But I've seen little commentary on the fate to which Walker consigned Dr. William Tam's deposition, even though Tam's deposition provided an equally important part of Walker's ruling.

As you recall, along with all but a few of the Defendant Intervenors' witnesses, Dr. Tam, whom the Prop 8 campaign had used as a key interlocutor with California's Asian-American voters, asked to withdraw as an official proponent of Prop 8 just before the trial began in January. He gave the same excuse as the "expert" witnesses had—a fear for his safety. But, as with those witnesses who ended up withdrawing, it is just as likely the D-I team realized that Dr. Tam's deposition and public writings absolutely demolished the D-I claim to be motivated out of a desire to protect procreative marriage and not out of ignorant, bigoted fear.

In his ruling, Walker noted that he had rejected Tam's request to withdraw.

On January 8, 2010, Hak-Shing William Tam, an official proponent and

defendant-intervenor, moved to withdraw as a defendant, Doc #369; Tam's motion is denied for the reasons stated in a separate order filed herewith.

And in a ruling accompanying his larger ruling, Walker denied Tam's request as moot.

On January 8, 2010, Hak-Shing William Tam, a defendant-intervenor, moved to withdraw as a defendant. Doc #369. Tam seeks to withdraw because: (1) he fears for his personal safety; (2) he does not wish to comply with discovery burdens; and (3) he does not want to spend his time defending this case. Id.

In his motion, Tam fails to identify a procedure through which he can withdraw as a defendant prior to entry of final judgment against him. Nevertheless, Tam's burdens as a defendant will be complete upon entry of final judgment. Tam's motion to withdraw accordingly is DENIED AS MOOT.

In other words, Walker justified his delay in ruling on Tam's motion for procedural reasons, and then mooted the request given that the trial is over and Tam's desires to withdraw are no longer valid.

Partly as a result, that means that Walker was able to make Dr. Tam's deposition—which had been entered by the plaintiffs—publicly available as evidence, as well as cite his statements at length in his ruling. In doing so, Walker gave his argument that Prop 8 was an attempt to require the state to enforce private moral and religious beliefs a human face (and much more textual evidence).

In addition to the ballot arguments, the Proposition 8 campaign presented to the voters of California a multitude of television, radio and internet-based advertisements and messages. The

advertisements conveyed to voters that same-sex relationships are inferior to opposite-sex relationships and dangerous to children.

[click through for Walker's list, which appears on PDF 9-10]

A state's interest in an enactment must of course be secular in nature. The state does not have an interest in enforcing private moral or religious beliefs without an accompanying secular purpose. See *Lawrence v Texas*, 539 US 558, 571 (2003); see also *Everson v Board of Education of Ewing Township*, 330 US 1, 15 (1947).

Of particular import, Walker cited a flier Tam wrote (and spoke about in the above video starting at 9:03) making a slippery slope argument that same-sex marriage will ultimately lead to churches being forced to marry gays and lesbians.

Letter from Tam to "friends": "This November, San Francisco voters will vote on a ballot to 'legalize prostitution.' This is put forth by the SF city government, which is under the rule of homosexuals. They lose no time in pushing the gay agenda — after legalizing same-sex marriage, they want to legalize prostitution. **What will be next? On their agenda list is: legalize having sex with children** * * * We can't lose this critical battle. If we lose, this will very likely happen * * * 1. Same-Sex marriage will be a permanent law in California. One by one, other states would fall into Satan's hand. 2. Every child, when growing up, would fantasize marrying someone of the same sex. More children would become homosexuals. Even if our children is safe, our grandchildren may not. What about our children's grandchildren? 3.

Gay activists would target the big churches and request to be married by their pastors. If the church refuse, they would sue the church.” [my emphasis]

Not to mention Tam’s claim that “the Gay Agenda”—which he says he learned about on the Internet (yet refused in his deposition to say whether he believed was true or not)—wants to legalize sex with children.

Dr. Tam’s worries about children fantasizing and wondering about marrying “John or Jane” are a key support for Walker’s assertion that the Prop 8 campaign mobilized fears about children coming out as gay or lesbian (13:20 in the video).

The Proposition 8 campaign relied on fears that children exposed to the concept of same-sex marriage may become gay or lesbian. The reason children need to be protected from same-sex marriage was never articulated in official campaign advertisements. Nevertheless, the advertisements insinuated that learning about same-sex marriage could make a child gay or lesbian and that parents should dread having a gay or lesbian child.

As with Dr. Tam’s “Jane or John” quote here.

Tam: Tam supported Proposition 8 because he thinks “it is very important that our children won’t grow up to fantasize or think about, Should I marry Jane or John when I grow up? Because this is very important for Asian families, the cultural issues, the stability of the family.”

Dr. Tam deposition, then, provided Walker a way to carry the claims made during the Prop 8 campaign but then actively suppressed and denied in his courtroom into the ruling against Prop 8.

Finally, for good measure, Walker used Tam's testimony as a way to show that Prop 8's supporters agreed with key claims made by the plaintiffs. For example, he used Tam's deposition to support his finding of fact that civil unions were not equivalent to marriage...

Tam: "If 'domestic partner' is defined as it is now, then we can explain to our children that, yeah, there are some same-sex person wants to have a lifetime together as committed partners, and that is called 'domestic partner,' but it is not 'marriage.'"

And Walker cited Dr. Tam's deposition in his finding of fact that allowing same-sex couples to marry would be a significant benefit for their children.

Tam: It is important to children of same-sex couples that their parents be able to marry.

Finally, Walker used correspondence with Tam to show how Protect Marriage ran the campaign.

Tam's deposition—now legally available on YouTube—by all rights should be a huge embarrassment for the Prop 8 crowd. But as it turns out, it served as key evidence in some of the key logical steps in Walker's argument.

Which, I guess, is why Tam wanted to withdraw.