***DENNIS HOLLINGSWORTH, et al., PETITIONERS v. KRISTIN M. PERRY et al.*[1]**
570 U. S. ____ (2013)

Chief Justice Roberts delivered the opinion of the Court.
[…]

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. […]. 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 [ruled that] Proposition 8 created a "narrow and limited exception" to the state constitutional rights otherwise guaranteed to same-sex couples. […] 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 imposed upon spouses." In *In re Marriage Cases*, the California Supreme Court concluded that the California Constitution further guarantees same-sex couples "all of the constitutionally based incidents of marriage," including the right to have that marriage "officially recognized." Proposition 8, the court explained in *Strauss*, left those rights largely undisturbed, reserving only "the official designation of the term 'marriage' for the union of opposite-sex couples as a matter of state constitutional law." […]

Respondents, two 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 to the Federal Constitution. The complaint named as defendants California's Governor, attorney general, and various other state and local officials responsible for enforcing California's marriage laws. Those officials refused to defend the law, although they have continued to enforce it throughout this litigation. The District Court allowed petitioners—the official proponents of the initiative, […] to intervene to defend it. After a 12-day bench trial, the District Court declared Proposition 8 unconstitutional, permanently enjoining the California officials named as defendants from enforcing the law [see *Perry v. Schwarzenegger*].

Those officials elected not to appeal the District Court order. When petitioners did, the Ninth Circuit asked them to address "why this appeal should not be dismissed for lack of Article III standing." […] After briefing and argument, the Ninth Circuit certified a question to the California Supreme Court:

> Whether under Article II, Section 8 of the California Constitution […] the official proponents of an initiative measure possess either a particularized interest in the initiative's validity […], which would enable them to defend the constitutionality of the initiative[.]

[1] Note: This majority opinion has been edited from the original text by Travis Braidwood for classroom use. The full case text can be found here: < http://www.supremecourt.gov/opinions/12pdf/12-144_8ok0.pdf >

The California Supreme Court agreed to decide the certified question, and answered in the affirmative. […] [T]he court concluded that "[i]n a postelection challenge to a voter-approved initiative measure, the official proponents of the initiative are authorized under California law to appear and assert the state's interest […] when the public officials who ordinarily defend the measure or appeal such a judgment decline to do so." *Perry v. Brown*, 52 Cal. 4th (2011).

Relying on that answer, the Ninth Circuit concluded that petitioners had standing under federal law to defend the constitutionality of Proposition 8. […]

On the merits, the Ninth Circuit affirmed the District Court. The court held the Proposition unconstitutional under the rationale of our decision in *Romer v. Evans*, 517 U. S. 620 (1996) […]. We granted certiorari to review that determination, and directed that the parties also brief and argue "Whether petitioners have standing under Article III, §2, of the Constitution in this case." 568 U. S. ___ (2012).

II

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. This requires the litigant to prove that he has suffered a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable judicial decision. *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555–561 (1992). In other words, for a federal court to have authority under the Constitution to settle a dispute, the party before it must seek a remedy for a personal and tangible harm. "The presence of a disagreement, however sharp and acrimonious it may be, is insufficient by itself to meet Art. III's requirements." *Diamond*, [infra], at 62.

[…]

Most standing cases consider whether a plaintiff has satisfied the requirement when filing suit, but Article III demands that an "actual controversy" persist throughout all stages of litigation. *Already, LLC v. Nike, Inc*., (slip op., at 4)[.] That means that 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 (1997) . We therefore must decide whether petitioners had standing to appeal the District Court's order.

[…]

After the District Court declared Proposition 8 unconstitutional and enjoined the state officials named as defendants from enforcing it, however, the inquiry under Article III changed. Respondents no longer had any injury to redress—they had won—and the state officials chose not to appeal.

The only individuals who sought to appeal that order were petitioners, who had intervened in the District Court. But the District Court had not ordered them to do or refrain from doing anything. To have standing, a litigant must seek relief for an injury that affects him in a "personal and individual way." *Defenders of Wildlife*, supra, at 560, n. 1. He must possess a "direct stake in the

outcome" of the case. *Arizonans for Official English*[.] Here, however, petitioners had no "direct stake" in the outcome of their appeal. Their only interest in having the District Court order reversed was to vindicate the constitutional validity of a generally applicable California law.

We have repeatedly held that such a "generalized grievance," no matter how sincere, is insufficient to confer standing. A litigant "raising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy." *Defenders of Wildlife*, supra, […].

Petitioners argue that the California Constitution and its election laws give them a " 'unique,' 'special,' and 'distinct' role in the initiative process—one 'involving both authority and responsibilities that differ from other supporters of the measure.' […] True enough—but only when it comes to the process of enacting the law. Upon submitting the proposed initiative to the attorney general, petitioners became the official "proponents" of Proposition 8. As such, they were responsible for collecting the signatures required to qualify the measure for the ballot[.] After those signatures were collected, the proponents alone had the right to file the measure with election officials to put it on the ballot. §9032. Petitioners also possessed control over the arguments in favor of the initiative that would appear in California's ballot pamphlets.

But once Proposition 8 was approved by the voters, the measure became "a duly enacted constitutional amendment or statute." 52 Cal. 4th, at 1147[.] Petitioners have no role—special or otherwise—in the enforcement of Proposition 8. […] They therefore have no "personal stake" in defending its enforcement that is distinguishable from the general interest of every citizen of California. *Defenders of Wildlife*, supra, at 560–561. […] Article III standing "is not to be placed in the hands of 'concerned bystanders,' who will use it simply as a 'vehicle for the vindication of value interests.' " *Diamond v. Charles,* 476 U. S. 54 at 62. […]

III

A

Without a judicially cognizable interest of their own, petitioners attempt to invoke that of someone else. They assert that even if they have no cognizable interest in appealing the District Court's judgment, the State of California does, and they may assert that interest on the State's behalf. It is, however, a "fundamental restriction on our authority" that "[i]n the ordinary course, a litigant must assert his or her own legal rights and interests, and cannot rest a claim to relief on the legal rights or interests of third parties." *Powers v. Ohio*, 499 U. S. 400, 410 (1991) . There are "certain, limited exceptions" to that rule. Ibid. But even when we have allowed litigants to assert the interests of others, the litigants themselves still "must have suffered an injury in fact, thus giving [them] a sufficiently concrete interest in the outcome of the issue in dispute." […]

[…]

For the reasons we have explained, petitioners have likewise not suffered an injury in fact, and therefore would ordinarily have no standing to assert the State's interests.

B

Petitioners contend that this case is different, because the California Supreme Court has determined that they are "authorized under California law to appear and assert the state's interest" in the validity of Proposition 8. The court below agreed: "All a federal court need determine is that the state has suffered a harm sufficient to confer standing and that the party seeking to invoke the jurisdiction of the court is authorized by the state to represent its interest in remedying that harm." As petitioners put it, 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)[.]"

In *Karcher*, we held that two New Jersey state legislators—Speaker of the General Assembly Alan *Karcher* and President of the Senate Carmen Orechio—could intervene in a suit against the State to defend the constitutionality of a New Jersey law, after the New Jersey attorney general had declined to do so[.] "Since the New Jersey Legislature had authority under state law to represent the State's interests in both the District Court and the Court of Appeals," we held that the Speaker and the President, in their official capacities, could vindicate that interest in federal court on the legislature's behalf. Id., at 82.

Far from supporting petitioners' standing, however, *Karcher* is compelling precedent against it. The legislators in that case intervened in their official capacities as Speaker and President of the legislature. No one doubts that a State has a cognizable interest "in the continued enforceability" of its laws that is harmed by a judicial decision declaring a state law unconstitutional. *Maine v. Taylor,* (1986) . To vindicate that interest or any other, a State must be able to designate agents to represent it in federal court. […] That agent is typically the State's attorney general. But state law may provide for other officials to speak for the State in federal court, as New Jersey law did for the State's presiding legislative officers in *Karcher*. See 484 U. S., at 81–82.

What is significant about *Karcher* is what happened after the Court of Appeals decision in that case. Karcher and Orechio lost their positions as Speaker and President, but nevertheless sought to appeal to this Court. We held that they could not do so. We explained that while they were able to participate in the lawsuit in their official capacities as presiding officers of the incumbent legislature, "since they no longer hold those offices, they lack authority to pursue this appeal."

The point of *Karcher* is not that a State could authorize private parties to represent its interests; Karcher and Orechio were permitted to proceed only because they were state officers, acting in an official capacity. As soon as they lost that capacity, they lost standing. Petitioners here hold no office and have always participated in this litigation solely as private parties.

The cases relied upon by the dissent, see post, at 11–12, provide petitioners no more support. The dissent's primary authorities, in fact, do not discuss standing at all. See *Young v. United States ex rel. Vuitton* et Fils (1987) ; *United States v. Providence Journal Co*., (1988) . And none comes

close to establishing that mere authorization to represent a third party's interests is sufficient to confer Article III standing on private parties with no injury of their own.

The dissent highlights the discretion exercised by special prosecutors appointed by federal courts to pursue contempt charges (citing *Young*, supra, at 807). Such prosecutors do enjoy a degree of independence in carrying out their appointed role, but no one would suppose that they are not subject to the ultimate authority of the court that appointed them. […]

The dissent's remaining cases, which at least consider standing, are readily distinguishable. […]

C

Both petitioners and respondents seek support from dicta in *Arizonans for Official English* v. *Arizona*. The plaintiff in *Arizonans for Official English* filed a constitutional challenge to an Arizona ballot initiative declaring English " 'the official language of the State of Arizona.' " […]

[…] We recognized that a legislator authorized by state law to represent the State's interest may satisfy standing requirements, as in *Karcher*, supra, at 82, but noted that the Arizona committee and its members were "not elected representatives, and we [we]re 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." […]

Petitioners argue that, by virtue of the California Supreme Court's decision, they are authorized to act " 'as agents of the people' of California." […] But that Court never described petitioners as "agents of the people," or of anyone else. Nor did the Ninth Circuit. The Ninth Circuit asked—and the California Supreme Court answered—only whether petitioners had "the authority to assert the State's interest in the initiative's validity." All that the California Supreme Court decision stands for is that, so far as California is concerned, petitioners may argue in defense of Proposition 8. This "does not mean that the proponents become de facto public officials;" the authority they enjoy is "simply the authority to participate as parties in a court action and to assert legal arguments in defense of the state's interest in the validity of the initiative measure." That interest is by definition a generalized one, and it is precisely because proponents assert such an interest that they lack standing under our precedents.

And petitioners are plainly not agents of the State—"formal" or otherwise[.] More to the point, the most basic features of an agency relationship are missing here. Agency requires more than mere authorization to assert a particular interest. "An essential element of agency is the principal's right to control the agent's actions." […] Yet petitioners answer to no one; they decide for themselves, with no review, what arguments to make and how to make them. Unlike California's attorney general, they are not elected at regular intervals—or elected at all. […] No provision provides for their removal. As one amicus explains, "the proponents apparently have an unelected appointment for an unspecified period of time as defenders of the initiative, however and to whatever extent they choose to defend it."

[…] petitioners owe nothing of the sort to the people of California. Unlike California's elected officials, they have taken no oath of office. […] They are free to pursue a purely ideological

commitment to the law's constitutionality without the need to take cognizance of resource constraints, changes in public opinion, or potential ramifications for other state priorities.

Finally, the California Supreme Court stated that "[t]he question of who should bear responsibility for any attorney fee award . . . is entirely distinct from the question" before it. Id., at 1161, 265 P. 3d, at 1031. (emphasis added). But it is hornbook law that "a principal has a duty to indemnify the agent against expenses and other losses incurred by the agent in defending against actions brought by third parties if the agent acted with actual authority in taking the action challenged by the third party's suit." 2 Restatement §8.14, Comment d. If the issue of fees is entirely distinct from the authority question, then authority cannot be based on agency.

Neither the California Supreme Court nor the Ninth Circuit ever described the proponents as agents of the State, and they plainly do not qualify as such.

IV

The dissent eloquently recounts the California Supreme Court's reasons for deciding that state law authorizes petitioners to defend Proposition 8. […]. We do not "disrespect[ ]" or "disparage[ ]" those reasons. Post, at 12. Nor do we question California's sovereign right to maintain an initiative process, or the right of initiative proponents to defend their initiatives in California courts, where Article III does not apply. But as the dissent acknowledges, see post, at 1, standing in federal court is a question of federal law, not state law. And 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 our settled law to the contrary.

The Article III 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 our system of separated powers. "Refusing to entertain generalized grievances ensures that . . . courts exercise power that is judicial in nature," Lance, 549 U. S., at 441, and ensures that the Federal Judiciary respects "the proper—and properly limited—role of the courts in a democratic society," *DaimlerChrysler Corp. v. Cuno*, 547 U. S. 332, 341 (2006) (internal quotation marks omitted). States cannot alter that role simply by issuing to private parties who otherwise lack standing a ticket to the federal courthouse.

* * *

We have never before upheld the standing of a private party to defend the constitutionality of a state statute when state officials have chosen not to. We decline to do so for the first time here.

Because petitioners have not satisfied their burden to demonstrate standing to appeal the judgment of the District Court, the Ninth Circuit was without jurisdiction to consider the appeal. The judgment of the Ninth Circuit is vacated, and the case is remanded with instructions to dismiss the appeal for lack of jurisdiction.

It is so ordered.