

Exhibit G

August 6, 2010 10:17 AM

Gay Marriage Judge's Personal Life Debated

By Daniel Carty

(AP) The federal judge who [overturned California's same-sex marriage ban](#) this week is a Republican who once came under fire for his membership to a powerful all-male club that had only recently allowed blacks to join.

But after Chief U.S. Judge Vaughn Walker struck down the voter-approved ban known as Proposition 8, he became something else in the minds of some: a gay activist.

Rumors have circulated for months that Walker is gay, fueled by the blogosphere and a San Francisco Chronicle column that stated his sexual orientation was an "open secret" in legal and gay activism circles.

Walker himself hasn't addressed the speculation, and he did not respond to a request for comment by The Associated Press on Thursday. Lawyers in the case, including those defending the ban, say the judge's sexuality - gay or straight - was not an issue at trial and will not be a factor on appeal.

But that hasn't stopped a public debate that exploded in the wake of the 66-year-old jurist's ruling. Most of the criticism has come from opponents of same-sex marriage.

"Here we have an openly gay federal judge, according to the San Francisco Chronicle, substituting his views for those of the American people and of our Founding Fathers who, I promise you, would be shocked by courts that imagine they have the right to put gay marriage in our Constitution," said Maggie Gallagher, chairwoman of The National Organization for Marriage, a group that helped fund Proposition 8.

In response, the Gay and Lesbian Victory Fund, a political action committee for gay candidates, launched an online petition accusing Gallagher's group of "gay-baiting."

But the debate raises the question: Why is sexuality different from other personal characteristics judges possess? Can a female judge rule on abortion issues? A black judge on civil rights?

"The evidence shows that, by every available metric, opposite-sex couples are not better than their same-sex counterparts; instead, as partners, parents and citizens, opposite-sex couples and same-sex couples are equal," Walker wrote in his exacting, 136-page opinion.

Gerard Bradley, a law professor at the University of Notre Dame, published a Fox News column in the hours before Walker filed his opinion faulting the media for not forcing Walker to address his sexual orientation.

And Byran Fischer, issues director for the American Family Association, urged the group's members to contact their congressional representatives about launching impeachment proceedings because Walker had not recused himself from a case in which "his own personal sexual proclivities utterly compromised his ability to make an impartial ruling."

William G. Ross, an expert on judicial ethics and law professor at Samford University in Alabama, said that a judge's sexual orientation has no more relevance to his or her ability to rule fairly on a case involving gay marriage than it would for a deeply religious judge or a judge who had been divorced multiple times.

"Under the logic of the people challenging the judge's fitness to rule on a case involving gay rights because he or she was gay, one would have to find a eunuch to serve on the case, because one could just as easily argue that a heterosexual judge couldn't rule on it either," Ross said.

Months before Walker struck down Proposition 8 as an unconstitutional violation of gay Americans' civil rights, members of the team defending the ban in court had complained about what they perceived as judicial bias.

Over their vigorous objections, Walker pushed to have the proceedings televised live, a plan the U.S. Supreme Court quashed at the last minute. Then, he refused to excuse as a witness a Proposition 8 supporter who had compared gays to child molesters during the 2008 campaign. Lawyers for the two same-sex couples who sued to invalidate the ban had called him as a witness to try to prove the measure was fueled by anti-gay prejudice.

Nevertheless, the defense does not plan to raise the specter of the judge's sexual orientation as they appeal his ruling to the 9th U.S. Circuit Court of Appeals, said Jim Campbell, a lawyer with the defense team.

"The bottom line is this case, from our perspective, is and always will be about the law and not about the judge who decides it," Campbell said. "It's just something that collectively as a legal team we have decided and going up, that's what this case is. The appellate courts are going to focus on the law."

Walker has ruled in at least two other cases involving gay rights issues during his two decades as a judge. In 1999, he rejected arguments from the parents of a San Leandro boy who claimed their religious rights were violated by pro-gay comments their son's teacher had made in the classroom.

In the other case, he dismissed a free speech claim by two Oakland city employees whose managers had confiscated a bulletin board flier for a religious group that promoted "natural family, marriage and family values." The city had "significant interests in restricting discriminatory speech about homosexuals," Walker wrote in his 2005 ruling.

Until this week, though, Walker had come under more criticism for representing the U.S. Olympic Committee in a lawsuit against a gay ex-Olympian who had created the so-called Gay Olympics. Walker won, forcing the Gay Olympics to become the Gay Games. He also

aggressively pursued legal fees by attaching a \$97,000 lien to the home of the organization's founder while he was dying of AIDS.

Gay activists cried foul, and his appointment to a federal judgeship was delayed for two years in the waning days of Ronald Reagan's presidency.

Civil rights groups also opposed Walker's nomination because of his 15-year membership in the Olympic Club, an all-male athletic club that had only recently admitted its first black members. California's senior senator at the time, Democrat Alan Cranston, used the club issue to question Walker's fitness for the bench.

Observers usually describe him as a maverick who delights in keeping people guessing. They still are.

On the day of closing arguments in the gay marriage ban case, Walker said it was appropriate that the case was wrapping up in June.

"June, after all, is the month for ... " He let his deep voice trail off, and smiled at the predominantly gay courtroom.

Many froze, wondering if he would refer to the month in which San Francisco celebrates gay pride like Mardi Gras. Would that be a nod to rumors he was gay?

Walker waited a beat longer, savoring the pregnant pause.

"... weddings."