

Appeals court upholds Proposition 209

■ A civil liberties attorney plans to appeal the ruling to the U.S. Supreme Court.

THE ASSOCIATED PRESS

SAN FRANCISCO — A federal appeals court reaffirmed its ruling upholding California's voter-approved ban on race and sex preferences in affirmative action on Thursday, meaning the law could go into effect within a week.

The 9th U.S. Circuit Court of Appeals said a request by civil rights groups for a rehearing on Proposition 209 had failed to gain a majority among the 18 judges eligible to vote. No vote total was announced.

American Civil Liberties Union lawyer Mark Rosenbaum said he would appeal to the U.S. Supreme Court and would ask that court to continue a ban on enforcement of the measure during the appeal, if the appeals court refused to maintain that ban.

If neither court intervenes immediately, Proposition 209 can be implemented in seven days under the court's

rules, Rosenbaum said.

He predicted the Supreme Court would agree to review the case and said 23 states similar measures.

"This is the first time in the nation's history that state and local government have had their hands tied when it comes to remedying past discrimination against minorities and women," the ACLU lawyer said.

A lawyer for sponsors of the initiative said the appeals court's action makes it unlikely the Supreme Court will review the case.

But if the court grants review, "I am confident it will find that the citizens of California acted in the letter and spirit of the Constitution when they voted to end racial preferences last November," Michael Carvin, of the Center for Individual Rights, said in a statement.

"So much for the ACLU's 'Alice-in-Wonderland' reading of the Constitution, whereby it is somehow discriminatory to end discrimination," he said.

The Clinton administration supported the ACLU's challenge, filed on behalf of minority and female students,

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MICHAEL CARVIN
Center for Individual Rights

employees and contractors. Proposition 209, approved by 54 percent of the voters, would prohibit preferences based on race or sex in state and local government employment, education and contracting.

The measure would eliminate a variety of programs, including hiring goals for minorities and women in state employment and consideration of race in public college admissions. University of California Regents voted separately to eliminate UC's affirmative action programs, starting with graduate school admissions this year.

Enforcement of the initiative was barred three weeks after the election by Chief U.S. District Judge Thelton

Henderson of San Francisco, who said opponents might prove it unconstitutional.

Henderson said the measure, though neutrally worded, would abolish only programs benefiting minorities and women, while leaving other groups, such as veterans and children of college alumni, free to ask government agencies for preferential treatment.

He relied on a 1982 Supreme Court ruling striking down a Washington state initiative prohibiting school boards from ordering busing for integration. The court said the measure discriminated against minorities by preventing them from seeking local remedies.

But a three-judge panel of the appeals court overruled Henderson on April 8, saying not only that opponents were not entitled to an injunction against the measure but also that it was clearly constitutional.

Proposition 209 "addresses in neutral fashion race-related and gender-related matters" in the spirit of the constitutional guarantee of equal protection under the law, said Judge Diarmuid O'Scannlain in the 3-0 decision.

Gingrich call motivates, demonstrates new power

THE ASSOCIATED PRESS

WASHINGTON — Newt Gingrich, working to demonstrate his reclaimed authority after last month's failed coup attempt, urged Republican colleagues Thursday to use the rest of their summer breaks to "keep driving home" the GOP message.

The House speaker told members not to become complacent but to keep repeating to hometown audiences the triumphs of the GOP-led Congress, particularly the largest tax cut in 16 years and balanced-budget legislation.

"Bill Clinton ought to be sort of a model for us. He is very willing to repeat, repeat, repeat," the House speaker said of the president in an unconventional telephone conference call, where GOP members could hear him but not talk back.

Gingrich aides said about 40 GOP members or designated staffers were on the line.

Gingrich and Rep. John A. Boehner,

R-Ohio, chairman

of the House Republican Conference, led members through a choreographed tour of how best to promote the GOP agenda as Congress prepares to begin its fall session.

"We have a very good message to say. My fear is, frankly, that (GOP members) will get tired of saying it, or will simply wander off and decide they don't have anything to do for awhile," Gingrich said.

The speaker also talked about his hopes to have "a tax cut every year" and said he found that line was a good crowd-pleaser.

"I think you'll find that's a nice final moral boost as you finish talking about taxes back home with your constituents," he said.

The phone conference call carried a high degree of symbolism, since Gingrich was joined by a cheerful-sounding Boehner, one of four Republican leaders who apologized to colleagues for their behavior during the failed attempt to topple Gingrich.

"We're winning the message war," Boehner told listeners.

He suggested that they find back-to-school events in the coming days at which to speak to tout the newly passed education tax breaks and make heavier use of mail.

Christina Martin, a Gingrich spokeswoman, called Gingrich's conference call "a progress report as much as a cheerleading session" for members.



House Speaker NEWT GINGRICH, R-Georgia, encouraged Republican House members to emphasize GOP triumphs.



IN THE NEWS

Top stories from the state, nation and world.

FBI sharpshooter faces charges of manslaughter

BONNERS FERRY, Idaho — An FBI sharpshooter who killed the wife of white separatist Randy Weaver in the 1992 standoff at Ruby Ridge was charged with manslaughter Thursday.

A friend of Weaver's, who was previously cleared of federal charges in the case, was charged with killing a federal marshal.

Boundary County Prosecutor Denise Woodbury filed the state charges after a two-year federal investigation ended last week with no charges being brought against the FBI sniper, Lon Horiuchi, or several high-ranking officials of the FBI.

The FBI siege spawned a nationwide debate on the use of force by federal law enforcement agencies.

FBI Director Louis Freeh said he was "deeply disappointed" by Woodbury's action. He said his agency would do everything it could to defend Horiuchi.

Kennedy assassination course receives criticism

MISSION VIEJO, Calif. — A community college course on President Kennedy's assassination is being criticized for including guest speakers who believe the slaying was plotted by the Israeli intelligence agency.

The two-campus Orange County Community College District, which approved the Sept. 26-28 course Monday, is advertising it as a "high-quality community education" offering.

The Anti-Defamation League said one speaker, Washington author Michael Collins Piper, denies the existence of the Holocaust. The ADL accused another speaker, Chicago author Sherman Skolnick, of being on the advisory board of the Spotlight, which the group called the "most anti-Semitic publication in America."

Steven J. Frogue, president of the district's seven-member board of trustees, cast the tie-breaking vote approving the course and plans to teach the three-day seminar without charge.

Frogue did not return telephone calls Wednesday but he told the Los Angeles Times in an earlier interview that he believes the ADL played a key role in the Kennedy assassination.

"I believe Lee Harvey Oswald worked for the ADL," he said. "That's right ... I believe the ADL was behind it."

Frogue denied making the comment during Monday night's meeting.

The assassination, he said, "was a joint enterprise conducted on the highest levels of the American CIA, in collaboration with organized crime — and most specifically, with direct and profound involvement by the Israeli intelligence service, the Mossad."

Investigators seek reason behind train derailment

FORT WORTH, Texas — Crews spent Thursday extracting the remains of two engineers killed when a runaway Union Pacific train with no one aboard collided head-on with another freight, triggering a spectacular blaze.

Two crew members survived the crash, which occurred about 11:30 p.m. Wednesday after the unmanned train somehow rolled from a side track onto the line being used by a westbound freight that had five locomotives and 114 cars, officials said.

Investigators were trying to determine what caused the unmanned train to roll free.

"That's really the central focus of the investigation: why these locomotives rolled downhill a little over 9 miles," said Union Pacific spokesman Mark Davis.

A large fire erupted after the crash as more than 8,000 gallons of diesel fuel leaked from the engines and ignited. About 60 fire fighters brought the blaze under control in about three hours.

Of the two crew members who escaped, one was uninjured. The other was treated for second- and third-degree burns and an injured elbow. One fire-fighter was treated for heat exposure.

AMA asks to be released from endorsement deal

CHICAGO — The American Medical Association, citing "errors in judgment," said Thursday it wants out of its endorsement deal with Sunbeam Corp.

After a week of stinging criticism, AMA officials said they will ask Sunbeam to release the doctors group from the contract.

The contract was to place the AMA logo on health care products in exchange for a percentage of sales.

Not so fast, Sunbeam says. "We have a contract with the AMA, which we are prepared to honor, and we expect them to honor it as well," Sunbeam Chairman Albert J. Dunlap said in a statement.

The company is willing to meet with the AMA but "we will not hesitate to take all necessary actions to ensure that the rights of Sunbeam and its shareholders continue to be protected," Dunlap said.

The AMA's executive vice president, P. John Seward, told reporters the contract was "an error."

He apologized for "creating public doubt about our motives" and pledged that the AMA will not endorse products or enter into exclusive arrangements again.

FROM WIRE REPORTS

FREE MAIL

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tem at the end of last school year.

"There really should not be anyone on the system now that is not currently enrolled at the University," he said.

With about 3,500 former students still using their free e-mail accounts, though, the University does not have the staff or the capacity to delete the accounts, Smythe said. "We simply don't have enough people to get everything done that needs to be done."

WATER

FROM PAGE 3

executive director Ed Kerwin said the water shortage in the Hillsborough area had not affected the area OWASA serves. "As of right now, OWASA customers are not under any mandatory conservation requirements," he said.

Kerwin said using water carefully was wise even during times when there are no shortages.

"It's always a good practice to conserve."

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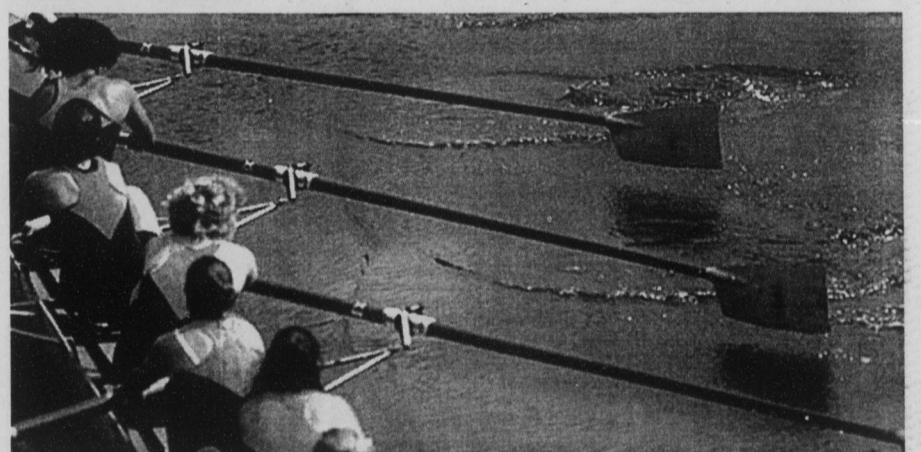
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