

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

December 1, 2011

County Commissioners
125 N Prairieville St, Room 100
Athens, TX 75751

Re: Nativity Scene

Dear Commissioners:

I am writing on behalf of a concerned area resident and taxpayer, as well as other Texas members of the Freedom From Religious Foundation (FFRF), who object to the erection of a nativity scene on Henderson County property. Freedom From Religion Foundation is a national nonprofit organization based in Madison, Wisconsin, with over 17,000 members across the country, including over 800 in Texas. Our purpose is to protect the fundamental constitutional principle of separation of state and church.

It is our information and understanding that a large nativity scene is on display at the Henderson County Courthouse and that it is the only seasonal display on the grounds (see photo enclosed). It is unlawful for the County to maintain, erect, or host this nativity scene, thus singling out, showing preference for, and endorsing one religion. The Supreme Court has ruled it is impermissible to place a nativity scene as the sole focus of a display on government property. See *Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1983).

In *County of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989), the Supreme Court held that a county government's crèche displayed in the county courthouse was an unconstitutional endorsement of religion. The Court stated,

"Lynch v. Donnelly, confirms, and in no way repudiates, the longstanding constitutional principle that government may not engage in a practice that has the effect of promoting or endorsing religious beliefs. The display of the crèche in the county courthouse has this unconstitutional effect." Id. at 621.

The Court further determined that the placement of the crèche on the Grand Staircase of the county courthouse contributed to its illegality because "no viewer could reasonably think it occupies this location without support and approval of the government." *Id.* at 599-600. Moreover, the Court found that the nativity scene "sen[t] an unmistakable message that [the county] supports and promotes the Christian praise to God that is the crèche's religious message." *Id.* at 600.

It is irrefutable that the crèche is a religious, Christian symbol. *See Lynch v. Donnelly*, 465 U.S. at 711 (Brennan, J. dissenting)(stating that the crèche is a "re-creation of an event that lies at the heart of the Christian faith"). Allowing the display of an inherently Christian message on government property unmistakably sends the message that Henderson County and the City of Athens endorse the religious beliefs embodied in the display.

When the County allows this manger scene to be created, which depicts the legendary birth of Jesus Christ, it places the imprimatur of the County government behind the Christian religious doctrine. This excludes citizens who are not Christian—Jews, Native American religion practitioners, animists, etc., as well as the significant and growing portion of the U.S. population that is not religious at all (15% of adults), including complainants and taxpayers in Henderson County. As the Court said in *Amancio v. Town of Somerset*, "[To] insist that government respect the separation of church and state is not to discriminate against religion, indeed it promotes a respect for religion by refusing to single out one or two creeds for official favor at the expense of all others." *Amancio v. Town of Somerset*, 28 F.Supp.2d 677, 681 (D. Mass. 1998).

There are ample private and church grounds where religious displays may be freely placed. Once the government enters into the religion business, conferring endorsement and preference for some religions over others, it strikes a blow at religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship.

We request that, as the Henderson County Commissioners, you take immediate action to ensure that no religious displays are on city or county property. Please inform us in writing of the steps you are taking to remedy this First Amendment violation so that we may notify our complainant.

Sincerely,



Stephanie A. Schmitt
Staff Attorney

Enclosure

