

FREEDOM FROM RELIGION *foundation*

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February 1, 2018

SENT VIA EMAIL & U.S. MAIL:
grayk@stlouiscountymn.gov

Mr. Kevin Gray
County Administrator
Saint Louis County
100 N 5th Ave W
Duluth, MN 55802

RE: Unconstitutional religious display in Hibbing courthouse

Dear Mr. Gray:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional biblical display in the Saint Louis County Courthouse in Hibbing. FFRF is a national nonprofit organization with more than 30,000 members across the country, including 600 Minnesota members and two local chapters, the Lake Superior Freethinkers and the Grand Rapids Atheists and Freethinkers. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that Saint Louis County prominently displays a plaque that contains the Ten Commandments and a biblical passage between two doors that lead to courtrooms. The display includes a numbered and edited version of the commandments underneath the Saint Louis County seal and a sign that says, "District Court." The plaque says, "GOD'S LAWS" and then says:

- I. YOU SHALL HAVE NO OTHER GODS BEFORE ME.
- II. YOU SHALL NOT MAKE YOURSELF A GRAVEN IMAGE.
- III. YOU SHALL NOT TAKE THE NAME OF THE LORD YOUR GOD IN VAIN.
- IV. REMEMBER THE SABBATH DAY, AND KEEP IT HOLY.
- V. HONOR YOUR FATHER AND YOUR MOTHER.
- VI. YOU SHALL NOT KILL.
- VII. YOU SHALL NOT COMMIT ADULTERY.
- VIII. YOU SHALL NOT STEAL.
- IX. YOU SHALL NOT BEAR FALSE WITNESS AGAINST YOUR NEIGHBOR.
- X. YOU SHALL NOT COVET

EXODUS 20: 3-17

“YOU SHALL LOVE THE LORD YOUR GOD WITH ALL YOUR HEART, AND WITH ALL YOUR SOUL, AND WITH ALL YOUR MIND, AND WITH ALL YOUR STRENGTH, YOU SHALL LOVE YOUR NEIGHBOR AS YOURSELF”.....MARK 12: 30-31

Please see the enclosed photo.

This Ten Commandments and bible quote display violates the Establishment Clause of the First Amendment. In *McCreary Cnty. v. ACLU*, 545 U.S. 844 (2005), the Supreme Court ruled that displays of the Ten Commandments in two Kentucky courthouses violated the Constitution. The Court discussed at length the requirement of government neutrality on matters of religion. The Court said, “The touchstone for our analysis is the principle that the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’” *Id.* at 860 (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)); see also *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947), *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985).

The religious message of the Ten Commandments is obvious. As the Supreme Court said of the Ten Commandments in *McCreary*:

They proclaim the existence of a monotheistic god (no other gods). They regulate details of religious obligation (no graven images, no sabbath breaking, no vain oath swearing). And they unmistakably rest even the universally accepted prohibitions (as against murder, theft, and the like) on the sanction of the divinity proclaimed at the beginning of the text.

545 U.S. at 868. The Court went on to say:

The point is simply that the original text viewed in its entirety is an unmistakably religious statement dealing with religious obligations and with morality subject to religious sanction. **When the government initiates an effort to place this statement alone in public view, a religious object is unmistakable.**

Id. at 869 (emphasis added).

Given the content of the display, a reasonable observer would view it as an endorsement of religion. The display directly connects Saint Louis County and the District Court with Christianity. The plaque proclaims to impart “God’s laws” and includes a passage from the Gospel of Mark. This religious message from the county is foisted upon all who enter the courtrooms. Saint Louis County is unmistakably sending the message that it gives the plaque its stamp of approval.

This display is unlike the one in *Van Orden v. Perry* that was allowed to stand. 545 U.S. 677 (2005). From the outset in *Van Orden*, Justice Breyer, whose opinion is controlling, called the display a “borderline case.” *Id.* at 700. Given the particular context, he found it did not violate the Establishment Clause. The monument was in a large park containing 17 monuments and 21 historic markers. *Id.* at 702. The Eighth Circuit Court of Appeals found that a monument that was “essentially the same” as the one in *Van Orden* could remain on a public plaza. *Red River Freethinkers v. City of Fargo*, 764 F.3d 948 (8th Cir. 2014).

The Saint Louis County plaque is fundamentally different than these monuments. Given the placement of the plaque next to courtrooms, its “God’s laws” inscription, its inclusion of a New Testament passage, and its location within a county courthouse, it is unconstitutional and cannot remain on county property.

Ten Commandments displays within or near courtrooms are especially concerning given the religious message they impart. They affiliate the justice system with biblical prohibitions, rather than our secular laws. They signal that the court is not impartial. Ten Commandments displays in this context have been found to be unconstitutional. *See ACLU of Ohio Found., Inc. v. Ashbrook*, 375 F.3d 484 (6th Cir. 2004); *ACLU of Ohio Found. v. Dewese*, 633 F.3d 424 (6th Cir. 2011).

Other Ten Commandments displays since *Van Orden* have been struck down by federal courts. *See, e.g., Felix v. City of Bloomfield*, 841 F.3d 848 (10th Cir. 2016), *cert. denied*, 138 S.Ct. 357; *Green v. Haskell Cnty. Bd. of Com’rs*, 568 F.3d 784 (10th Cir. 2009), *cert. denied*, 130 S.Ct. 1687.

When municipalities unsuccessfully defend unconstitutional displays, they are on the hook for the plaintiffs’ costs and attorneys fees. In Establishment Clause challenges to Ten Commandments displays, these can be significant. *See Felix v. City of Bloomfield*, 1:12-cv-00125, Doc. 159 (N.M. D.C. Judgment for Attorneys’ Fees and Costs, Dec. 5, 2017) (ordering payment of \$700,000); *FFRF v. New Kensington-Arnold Sch. Dist.*, No. 2:12-cv-01319 (W.D. Pa 2017) (settled in February 2017 with the removal of the Ten Commandments monument and payment of \$163,500 for costs and attorney fees).

Finally, as a matter of policy, the county should not host a religious display. The First Commandment alone makes it obvious why the Ten Commandments should not be posted on government property. The government has no business telling citizens which god they must have, how many gods they must have, or that they must have any god at all. There are ample private and church grounds where this religious display 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, coercing citizens of all faiths and of no religion to support a particular expression of worship.

On behalf of our local members, we request that Saint Louis County remove the Ten Commandments plaque from the Hibbing courthouse. Please inform us of the actions that the county is taking to address this matter. We look forward to a reply at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick C. Elliott". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Patrick C. Elliott
Senior Counsel

Enc.



DISTRICT COURT

- GOD'S LAWS -

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EXODUS 20: 1-17

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