

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL AND EMAIL
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Lysia H. Bowling
City Attorney, City of Pensacola
222 West Main Street
Seventh Floor
Pensacola, FL 32502

Dear Ms. Bowling:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the display of a cross on public property. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with over 22,500 members across the country, including over 1,100 members in Florida. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that there is a large (15-20 foot-tall) white cross in Bayview Park in Pensacola. Our complainant informs us that the cross was erected decades ago. This cross has been used as a popular location for Easter sunrise services since at least the 1940's. We further understand that the City is considering plans to re-design the park. Our complainant informs us that in those plans the cross remains a permanent fixture. Please find enclosed pictures of the cross.

The religious significance of the Latin cross is unambiguous and indisputable. "The Latin cross . . . is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point." *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995) (Souter, J., concurring). An overwhelming majority of federal courts agree that the Latin cross universally represents the Christian religion, and only the Christian religion. *See, e.g., Separation of Church and State Comm. v. City of Eugene*, 93 F.3d 617, 620 (9th Cir. 1996) ("There is no question that the Latin cross is a symbol of Christianity, and that its placement on public land . . . violates the Establishment Clause"); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) ("a Latin cross . . . endorses or promotes a particular religious faith. It expresses an unambiguous choice in favor of Christianity."), *cert. denied*, 505 U.S. 1218 (1992); *ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986) ("When prominently displayed . . . the cross dramatically conveys a message of governmental support for Christianity, whatever the intentions of those responsible for the display may be. Such a display is not only religious but sectarian."), *cert. denied*, 479 U.S. 961 (1986).

A majority of federal courts have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir.

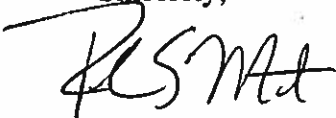
2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and Cnty. of San Diego*, 93 F.3d 627, 632 (9th Cir. 1996); *Friedman v. Bd. of Cnty. Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); *ACLU v. Rabun Cnty. Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984). Most of the aforementioned cases involved the display of a Latin cross in public parks, showing that the case law regarding this issue is clear. Such a religious display “place[s] the government weight behind an obvious effort to proselytize on behalf of a particular religion.” *Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 661 (1989) (Kennedy, J., concurring in part, dissenting in part).

The government’s permanent display of a Latin cross on public land is unconstitutional. The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and that the display promotes Christianity. The display of this patently religious symbol on public property confers government endorsement of Christianity, a blatant violation of the Establishment Clause. The endorsement is made stronger by use of the cross for religious services. The history of Easter services held at the cross evidence its religious purpose. *See, e.g., Trunk*, 629 F.3d 1099; *Rabun Cnty. Chamber of Commerce, Inc.*, 698 F.2d 1098.

The cross unabashedly creates the perception of government endorsement of Christianity. It conveys the message to non-Christians, including the one in five Americans who are not religious, that they are not “favored members of the political community.”¹ *Allegheny*, 492 U.S. at 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Pensacola political outsiders.

We ask that you remove the cross from Bayview Park immediately or direct it be moved to a more appropriate private location. Any plans to redesign the park should not include the cross. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Rebecca Markert
Staff Attorney

RSM:lkd

Enclosure

¹ “America’s Changing Religious Landscape,” Pew Research Center, The Pew Forum on Religion & Public Life (May 12, 2015), available at <http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>.

