

FREEDOM FROM RELIGION *foundation*

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

August 14, 2015

**SENT VIA U.S. MAIL AND EMAIL TO:
breathittjudgeexec@gmail.com**

John Lester Smith
County Judge/Executive
Breathitt County
1137 Main St
Jackson, KY 41339

Re: Unconstitutional Jesus Picture

Dear Mr. Smith:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a constitutional violation occurring at the Breathitt County Courthouse. A concerned local resident contacted us about this matter. FFRF is a national nonprofit organization representing over 22,500 members across the country, including members in Kentucky. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that a large, framed picture of Jesus is on display in the main entranceway of the Breathitt County Courthouse. The picture is of a man kneeling before Jesus with a caption reading: "In your place what would Jesus do?" We understand the building also houses County offices, such as the County Court Clerk's office. As such, there is a lot of traffic at the courthouse from County residents who do business in the building. This picture is one of the first things visitors see when entering through the main entrance.

FFRF has sent letters about this unconstitutional posting to your predecessor, Mr. Richardson, since 2013. Our first letter was sent on May 31, 2013. Despite several follow up letters, FFRF did not receive a response. After our complainant informed us that the picture of Jesus was still hanging in the courthouse, FFRF sent another letter on August 15, 2014. Again, follow up letters were sent and no response was received.

Our complainant informs us that the picture is still hanging in the courthouse. We ask that you take action to remove this picture from courthouse grounds for the reasons outlined below.

The Establishment Clause of the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again, that the "First


Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary County, KY. V. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947).

This picture conveys to all visitors of the Breathitt County Courthouse that Christianity is the favored religion of government. “The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief.” *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. 573, 593-594 (1989). Like the Ten Commandments posting in county buildings in *McCreary* and the crèche display on county land in *Allegheny*, this display is unconstitutional under the precedent of *Lemon v. Kurtzman*, 403 U.S. 602 (1971). Any reasonable observer would view this display as an endorsement of Christianity by Breathitt County.

The Breathitt County Courthouse must only serve the secular needs of citizens, regardless of their belief or nonbelief. This Christian display and the County’s refusal to remove it “sends the message to all nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members.’” *McCreary*, 545 U.S. at 860 (citations omitted).

Please remove the picture Jesus from the Breathitt County Courthouse immediately and inform us in writing that appropriate actions are being taken to remedy this violation. We look forward to your reply.

Sincerely,



Rebecca S. Markert
Staff Attorney