

FREEDOM FROM RELIGION *foundation*

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

November 9, 2019

SENT VIA EMAIL & U.S. MAIL:

rowland_todd@camdenmo.org

Rowland Todd
Camden County Clerk
1 Court Circle, NW
Camdenton, MO 65020

Re: Religious displays in county clerk's office

Dear Mr. Todd:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) in response to a complaint from a member of your community about a religious displays in the county clerk's office. FFRF is a national nonprofit organization with 32,000 members across the country, including members in Missouri. FFRF's purposes are to protect the constitutional separation between state and church, and to educate the public on matters related to nontheism.

Our complainant reports that two religious images are prominently displayed in your office in plain view of any person there to conduct business. The first is a framed New Testament verse, which reads: "Greater love hath no man than this, that one would lay their life down for another. John 15:13." Our complainant reports that this bible verse is displayed near the ballot box or absentee voting. The second display is a wall-length September 11th memorial that features a large Latin cross at its center. The cross is draped in cloth, similar to crosses displayed at Easter. Please see the enclosed images.

We write to ask that you remove these religious displays from the County Clerk's office in recognition that they represent an unconstitutional government endorsement of religion.

The Establishment Clause 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 Cty., Ky. v. Am. 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. Bd. of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947). The Court has also ruled, "The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief." *Cty. of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Ch.*, 492 U.S. 573, 593-94 (1989). Like the Ten Commandments posters in county buildings in *McCreary* and the crèche display on county land in *Allegheny*, a reasonable observer would view the displays in your office as an endorsement of religion, and they are accordingly unconstitutional.

Federal courts have upheld restrictions on religious displays by employees on government property because such restrictions exist to avoid Establishment Clause violations. The

Ninth Circuit Court of Appeals has stated that the “government has a greater interest in controlling what materials are posted on its property than it does in controlling the speech of the people who work for it.” *Tucker v. Dept. of Educ.*, 97 F.3d 1204, 1214 (9th Cir. 1996); *see also Berry v. Dept. of Soc. Serv.*, 447 F.3d 642, 651 (9th Cir. 2006) (“materials posted on the walls of the corridors of government offices may be interpreted as representing the views of the state”). A bible quote and a cross certainly falls within the category of religious speech that the government must not sponsor to avoid the appearance of religious favoritism.

In *Berry*, the court upheld restrictions on religious displays in work spaces, even private cubicles or offices, because public access to the area could cause someone to “reasonably interpret the presence of visible religious items as a government endorsement of religion.” *Id.* at 652. The court concluded that “[d]isplaying the Bible implicitly endorses a religious message and it is precisely that message which the Department reasonably seeks to avoid.” *Id.* Courts have recognized that “the state has a legitimate interest, for example, in preventing the posting of crosses or Stars of David in the main hallways, by the elevators, or in the lobbies, and in other locations throughout its buildings. Such a symbol could give the impression of impermissible government support of religion.” *Tucker*, 97 F.3d at 1216.

The Fifth Circuit has likewise held that religious displays on government property impermissibly endorse religion. For example, Harris County, Texas was required to remove a monument near the entrance to the county courthouse because it contained an open bible. *Staley v. Harris Cty., Tex.*, 461 F.3d 504, 515 (5th Cir. 2006), *on reh’g en banc*, 485 F.3d 305 (5th Cir. 2007) (upholding injunction without reviewing Establishment Clause question). The court considered the history of the monument and concluded that it was unconstitutional because “public grounds... may not reflect preference in matters of religion.” *Id.* at 505.

The County Clerk’s office cannot fulfill its mission of serving all members of the community while also sponsoring a message that excludes minority religious and nonreligious citizens, who represent 30% of the population.¹ We request assurances that you will provide all citizens with an environment free from religious endorsement by removing these exclusionary displays. Please respond in writing detailing the actions your office will take so that we may notify our complainant.

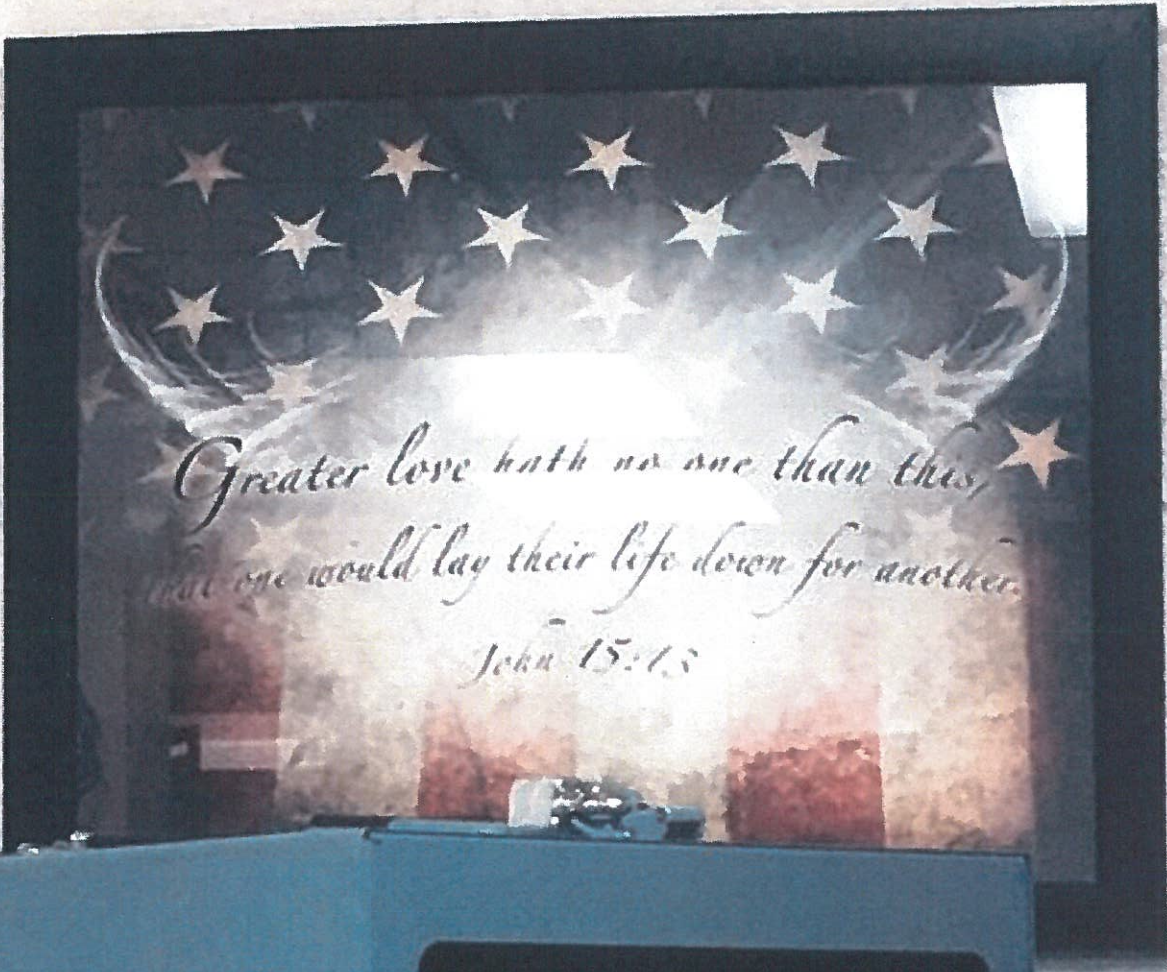
Sincerely,



Colin E. McNamara, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

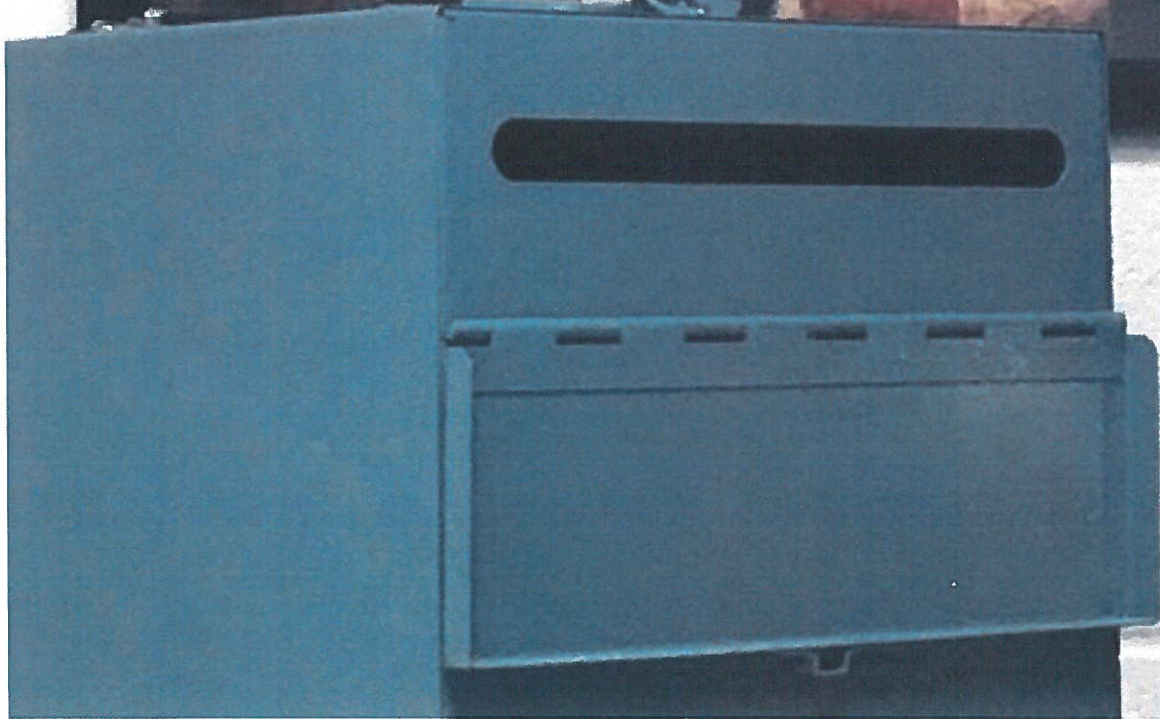
Enclosure

¹ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.



*Greater love hath no one than this,
that one would lay their life down for another.*

John 15:13



September 11, 2001

