

FREEDOM FROM RELIGION *foundation*

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

June 1, 2018

SENT VIA U.S. MAIL & EMAIL:

commission@jacksoncountywv.com

Jackson County Commission
PO Box 800
Ripley, WV 25271

Re: Prayer Banners on Courthouse Lawn

Dear Jackson County Commissioners:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional religious display outside the Jackson County Courthouse. FFRF is a national nonprofit organization with 33,000 members across the country, including members in West Virginia. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

We understand that a gazebo on the Jackson County Courthouse lawn displayed two banners—one containing a Bible verse, and another featuring crosses and announcing a National Day of Prayer in May. The two banners read as follows:

“If my people which are called by my name shall humble themselves, pray, seek my face and turn from their wicked ways; Then I will hear from heaven and will forgive their sins and will heal their land.” 2 CHRONICLES 7:14

NATIONAL DAY OF PRAYER 1st Thursday in MAY¹

A religious banner, like any other religious display endorsed by the government, is unconstitutional.

The Establishment Clause of the First Amendment “mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *McCreary Cnty., 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 Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). The Supreme Court has explained that “the prohibition against governmental endorsement of religion preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.” *Cty. of Allegheny v. ACLU Greater Pittsburgh Ch.*, 492 U.S. 573, 593 (1989). The goal of this “endorsement test” is to ensure that the government does not “appear to take a position on questions of religious belief.” *Id.* at 594.

¹ These banners are depicted in the attached photo.

Like the Ten Commandments postings in county courthouses in *McCreary* and the crèche display in a county courthouse in *Allegheny*, this display is unconstitutional under the precedent of *Lemon v. Kurtzman*, 403 U.S. 602 (1971). The government may not endorse prayer or Christianity.

Encouraging citizens to pray on a banner that is prominently displayed on County property would be viewed by a reasonable observer as an endorsement of religion by the County, and is therefore unconstitutional. The County is further sending a religious message by broadcasting a proselytizing bible verse. No legitimate secular purpose was served by the banners' message. Governmental endorsement of a religious message is impermissible because it sends a message to nonadherents "that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." *Santa Fe Indep. Sch. Dist.*, 530 U.S. 290, 309 (2000) (citations omitted).

By endorsing Christianity and prayer—an inherently religious ritual—these banners violate the Establishment Clause. In light of the County's constitutional obligations, we request assurances that displays promoting religious messages, including National Day of Prayer messages, will not be placed on the courthouse grounds. We ask for a response in writing outlining the actions that Jackson County will take to remedy this violation.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Elliott", with a large, stylized flourish at the end.

Patrick Elliott, Esq.
Senior Counsel
Freedom From Religion Foundation

Enclosure

"If my people which are called by my name shall humble themselves, pray, seek my face and turn from their wicked ways; Then will I hear from heaven and will forgive their sins and will heal their land." 2 CHRONICLES 7

† NATIONAL †
DAY OF PRAYER
1st Thursday in MAY