

# FREEDOM FROM RELIGION *foundation*

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November 30, 2018

SENT VIA EMAIL & U.S. MAIL  
schilders@ozarkmissouri.org

Stephen Childers, City Administrator  
City of Ozark  
205 N. First St.  
Ozark, MO 65721-0295

Re: Display of Cross on Government Property

Dear Mr. Childers:

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 city resident. FFRF is a national nonprofit organization with more than 32,000 members across the country, including almost 400 members in Missouri. FFRF's 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 a large steel cross is erected in Finley River Park. Our complainant informs us that this cross is lit up every year during the Christmas holiday. Please find enclosed pictures of the cross. We write to urge the City of Ozark to remove this cross from public property immediately.

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).

Equally problematic is that this cross is illuminated for the Christmas holiday. In *ACLU v. St. Charles*, 794 F.2d 265 (7th Cir. 1986), *cert. denied*, 479 U.S. 961 (1986), the Seventh Circuit prohibited the city of St. Charles from displaying an illuminated Latin cross on the top of the city's fire department as a part of its annual Christmas display. *Id.* at 267. The court reasoned that this powerful sectarian symbol was not a traditional decoration for the holiday season, but instead was an unmistakable symbol of Christianity. *Id.* at 271. It stated, "when prominently displayed on a public building that is clearly marked as and known to be such, the cross dramatically conveys a message of government support for Christianity..." *Id.* Thus, the court held this display constituted an endorsement of religion, particularly Christianity, which is prohibited by the Establishment Clause of the First Amendment. *Id.* at 270-271.

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 detracts 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 cross unabashedly creates the perception of government endorsement of Christianity. It conveys the message to the 30% of Americans who are not Christians, including the 24% of Americans who are not religious, that they are not "favored members of the political community."<sup>1</sup> *Allegheny*, 492 U.S. at 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Ozark political outsiders.

We ask you to remove the cross from Finley River Park immediately or direct that the display be moved to a more appropriate private location. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Rebecca S. Markert  
Legal Director

Enclosures

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<sup>1</sup> Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at [www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).







