

# FREEDOM FROM RELIGION *foundation*

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March 7, 2017

**SENT VIA EMAIL AND U.S. MAIL:**  
**lsrichards@pa.gov**

The Honorable Leslie Richards  
Secretary  
Pennsylvania Department of Transportation  
Keystone Building, 8th Floor West  
Harrisburg, PA 17120

**Re: Unconstitutional taxpayer-funded Latin crosses**

**Dear Secretary Richards:**

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional use of taxpayer funds. We appreciate your office's assistance in resolving a constitutional complaint last year and hope that this issue can be swiftly corrected as well.

Multiple Pennsylvania taxpayers contacted us to report that the Pennsylvania Department of Transportation is contributing taxpayer funds toward building a bridge on the campus of Villanova University. We understand that the bridge will include four large, metal Latin crosses atop stone pillars.

The use of taxpayer funds to construct Latin crosses violates both the United States and Pennsylvania Constitutions, regardless of where the religious symbols are placed. The crosses must be removed from the project, or else the university must pay for the bridge itself.

As an initial matter, 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., 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). The location of the proposed crosses on the campus of a Catholic university only makes the religious nature of the crosses more clear.

It is illegal for the Department of Transportation to use public funds to construct permanent Latin crosses, even if part of a larger secular project. The Establishment Clause strictly prohibits the government from advancing religion. The Supreme Court has struck down grants to religious schools, even when the funds will not be used to advance religion directly. *See Comm. for Pub. Educ. v. Nyquist*, 413 U.S. 756, 777 (1973) (striking down repair grants meant to renovate parochial school buildings); *Lemon v. Kurtzman*, 403 U.S. 602, 625 (1971) (holding that government aid to nonpublic education impermissibly entangled the government with religion, even when limited to secular subjects). Providing the funding to erect prominent Christian symbols directly advances Villanova's religious mission. The Department may not use public funds to erect religious symbols, regardless of whether the symbols will be on government property or the campus of a private religious school.

In *Tilton v. Richardson*, the Supreme Court held that a 20-year ban on a religious university using government-financed facilities for sectarian instruction did not go far enough; the government was obligated to ensure that the facilities were *never* "used to promote religious interests."<sup>1</sup> By contrast, funds used to erect Latin crosses on Villanova's campus immediately advance a religious interest.

Furthermore, the Pennsylvania Constitution prohibits the government from using taxpayer funds to advance religion, or from giving preference to any religion: "no man can of right be compelled to attend, erect or support any place of worship or to maintain any ministry against his consent . . . and no preference shall ever be given by law to any religious establishment or modes of worship." Penn. Const. Art. I § 3 (emphasis added). Erecting prominent Latin crosses atop stone pillars on a bridge serves no purpose other than to advance Christianity. Pennsylvania taxpayers have a right to not be compelled to fund such a project.

The Department's allocation of state funds to construct large Latin crosses not only financially supports a religious activity, it also gives the appearance that the Department prefers Christianity over minority religions, in violation of the state constitution. To our knowledge, the Department has never used taxpayer funds to construct permanent religious symbols representing Islam, Hinduism, Satanism, or any other minority faith. We are confident that the Department would never approve spending taxpayer funds to erect, for example, four large Satanic pentagrams atop a taxpayer-funded bridge. It is

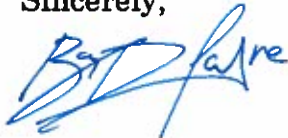
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<sup>1</sup> *Tilton v. Richardson*, 403 U.S. 672, 683 (1971).

unconstitutional to make an exception for Christianity simply because it is the majority religion.

On behalf of our Pennsylvania membership and local complainants, we ask that you examine the above facts carefully, reconsider the misguided funding decision, and take immediate action to either remove the crosses from the proposed bridge or withdraw the Department's offer to fund the project. Please respond promptly in writing detailing the steps taken to correct this serious and flagrant constitutional violation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan D. Jayne". The signature is stylized and cursive.

Ryan D. Jayne, Esq.  
*Elaine & Eric Stone Legal Fellow*  
*Freedom From Religion Foundation*