

FREEDOM FROM RELIGION *foundation*

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

February 22, 2023

SENT VIA EMAIL & U.S. MAIL: council4@co.laurens.sc.us

Brown Patterson
Chairman
Laurens County Council
100 Hillcrest Sq.
P.O. Box 445
Laurens, SC 29360

Re: Unconstitutional and divisive Ten Commandments display

Dear Chairman Patterson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional and divisive Ten Commandments display in the county courthouse. FFRF is a national nonprofit organization with more than 40,000 members across the country, including members in South Carolina. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned Laurens County resident has reported that the county courthouse has a Ten Commandments plaque on display. Our complainant reports that they were required to go to the courthouse to perform jury duty and while they were there they noticed a Ten Commandments plaque located in the hallway next to the courtroom. Please see the enclosed photo, which indicates the plaque was erected by the Laurens County Council in 2001.

We write to inform the Council that it cannot display the Ten Commandments on public property. Displaying the Ten Commandments in the county courthouse is not only an unconstitutional display of favoritism towards religion, it needlessly alienates and excludes county residents who do not share the religious beliefs that the Ten Commandments embody and represent.

A Ten Commandments display in a county courthouse violates the Establishment Clause of the First Amendment. In *McCreary Cty. v. ACLU*, 545 U.S. 844 (2005), the Supreme Court ruled that displays of the Ten Commandments in two Kentucky courthouses violated the Constitution. The Court discussed at length the requirement of government neutrality on matters of religion. The Court said, “The touchstone for our analysis is the principle that the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’” *Id.* at 860 (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)); *see also Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947), *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985).

The religious message of the Ten Commandments is obvious. As the Supreme Court explained in *McCreary*:

[The Ten Commandments] proclaim the existence of a monotheistic god (no other gods). They regulate details of religious obligation (no graven images, no sabbath breaking, no vain oath swearing). And they unmistakably rest even the universally accepted prohibitions (as against murder, theft, and the like) on the sanction of the divinity proclaimed at the beginning of the text.

545 U.S. 844, 868. The Court went on to say:

The point is simply that the original text viewed in its entirety is an unmistakably religious statement dealing with religious obligations and with morality subject to religious sanction.

Id. at 869. When a government body takes the initiative to display a religious text in the hallway of the county's courthouse, it demonstrates a plain and undeniable preference for religion over nonreligion, and for those religions which subscribe to the Ten Commandments above all other faiths.

Other modern Ten Commandments displays have been struck down by federal courts. *See, e.g., Felix v. City of Bloomfield*, 841 F.3d 848 (10th Cir. 2016), *cert. denied*, 138 S.Ct. 357; *ACLU of Ohio Found. v. Deweese*, 633 F.3d 424 (6th Cir. 2011), *cert. denied*, 131 S.Ct. 368; *Green v. Haskell Cty. Bd. of Com'rs*, 568 F.3d 784 (10th Cir. 2009), *cert. denied*, 130 S.Ct. 1687.

This display is significantly different from the display in *Van Orden v. Perry* that was allowed to stand. 545 U.S. 677 (2005). From the outset in *Van Orden*, Justice Breyer, whose opinion is controlling, called the display a "borderline case." *Id.* at 700. Given the particular context, he found it did not violate the Establishment Clause. He explained that a modern installation like this one would not receive the same validation:

And, in today's world, in a Nation of so many different religious and comparable nonreligious fundamental beliefs, a more contemporary state effort to focus attention upon a religious text is certainly likely to prove divisive in a way that this longstanding, pre-existing monument has not.

Id. at 703.

When municipalities unsuccessfully defend unconstitutional displays, they are on the hook for the plaintiffs' costs and attorneys fees. In Establishment Clause challenges to Ten Commandments displays, these can be significant. *See Felix v. City of Bloomfield*, 1:12-cv-00125, Doc. 159 (N.M. D.C. Judgment for Attorneys' Fees and Costs, Dec. 5, 2017) (**Ordering payment of \$700,000**); *FFRF v. New Kensington-Arnold Sch. Dist., No. 2:12-cv-01319 (W.D. Pa 2017)* (settled in February 2017 with the removal of the Ten Commandments monument and **payment of \$163,500** for costs and attorney fees).

Finally, as a matter of policy, the County should not host a religious display. The First Commandment alone makes it obvious why the Ten Commandments should not be posted on government property. The government has no business telling citizens which god they must have, how many gods they must have, or that they must have any god at all.

Out of respect for the Constitution and the rights of conscience of the County's residents, the County must remove the Ten Commandments in the county courthouse. Please inform us in writing of the steps the County is taking to address this matter so that we may inform our complainant.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Cc: Thomas R. Higgs, II, County Administrator, via thomashiggs@co.laurens.sc.us

Enclosure

- I. Thou shalt have no other Gods before me.
- II. Thou shalt not make unto thee any graven image*
- III. Thou shalt not take the name of the Lord thy God in vain*
- IV. Remember the Sabbath day to keep it holy
Six days shalt thou labour*
- V. Honour thy father and thy mother:
that thy days may be long.*
- VI. Thou shalt not kill.
- VII. Thou shalt not commit adultery.
- VIII. Thou shalt not steal.
- IX. Thou shalt not bear false witness against thy neighbour.
- X. Thou shalt not covet thy neighbour's house
Thou shalt not covet thy neighbour's wife*

EXODUS XX.

Erected by Laurens County Council 2001