

# FREEDOM FROM RELIGION *foundation*

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January 6, 2022

**SENT VIA U.S. MAIL AND EMAIL**

**hgallagher@sfcgov.org**

Harold Gallaher  
Presiding Commissioner  
Saint Francois County Commission  
1 West Liberty Street  
Annex Building, Suite 301  
Farmington, MO 63640

Re: Unconstitutional County Seal

Dear Commissioner Gallaher:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the official seal for St. Francois County. FFRF is a national nonprofit organization with more than 35,000 members, including more than 450 members in Missouri. 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 have received several complaints regarding the County's seal, which includes a Latin cross on a bible. We understand that the seal is to be redesigned with the same elements included.<sup>1</sup>

When the seal is redesigned, it must not include a cross and a bible, which are unconstitutional endorsements of religion that exclude the non-Christian residents of St. Francois County.

The religious significance of the Latin cross is unambiguous and indisputable. A 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 . . . .”); *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).

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<sup>1</sup> <https://www.npr.org/2022/01/05/1070609215/county-seal-design-reddit>.

The inclusion of religious imagery on the official St. Francois County seal violates the Establishment Clause of the First Amendment. The Establishment Clause, “at the very least, prohibits government from appearing to take a position on questions of religious belief or from ‘making adherence to a religion relevant in any way to a person's standing in the political community.’” *Cnty. of Allegheny v. Am. Civil Liberties Union*, 492 U.S. 573, 594 (1989) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 687 (1984)). The seal signals an official endorsement of Christianity. This “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.” *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring).

In a case involving a city seal, a federal district court in Missouri found that a fish symbol in one quadrant was undeniably a religious symbol. *Webb v. City of Republic, Mo.*, 55 F. Supp. 2d 994 (W.D. Mo. 1999). The plaintiff won a summary judgment motion because there was no genuine issue of material fact that “a reasonable observer would conclude that it is a Christian religious symbol.” *Id.* at 998-99. There is also no genuine issue of material fact that a Latin cross on a bible endorses Christianity.

Other federal courts have also ruled that religious symbols on official government seals or logos violate the Establishment Clause:

- *Robinson v. City of Edmond*, 68 F.3d 1226 (10<sup>th</sup> Cir. 1995) (finding city seal containing Latin cross in one quadrant violated Establishment Clause);
- *Ellis v. City of La Mesa*, 990 F.2d 1518 (9<sup>th</sup> Cir. 1993) (finding city insignia depicting “well-known local feature” containing a Latin Cross violated the No Preference Clause of the California Constitution);
- *Harris v. City of Zion*, 927 F.2d 1401 (7<sup>th</sup> Cir. 1991) (finding cities’ seals that included a Latin cross violated Establishment Clause);
- *Friedman v. Board of County Com’rs of Bernalillo County*, 781 F.2d 777 (10<sup>th</sup> Cir. 1985) (finding Latin cross with Spanish motto meaning “With This We Conquer” on county seal violated Establishment Clause);
- *American Civil Liberties Union of Ohio, Inc. v. City of Stow*, 29 F.Supp.2d 845 (N.D. Ohio 1998) (finding city seal containing Latin cross in one quadrant violated Establishment Clause).

In *Friedman* and *Robinson*, the courts considered not just the particular message conveyed by the actual elements of the seal, but also its pervasiveness, “‘the seal ... pervades the daily lives of county residents. It is not displayed once a year for a brief period ... [but r]ather it appears on all county paperwork, on all county vehicles, even on county sheriff’s uniforms.’ We therefore concluded that the seal violated the Establishment Clause.” *Robinson*, 68 F.3d at 1231 (internal citations omitted). Similarly, St. Francois County’s seal is an official representation of the County used pervasively for important County business and displayed on County websites, vehicles, and documents.

The County should remove exclusionary religious images from its official representations as a matter of policy. The County represents a diverse population with diverse religious views. Thirty-five percent of Americans are non-Christian, including more than one in four Americans who identify as religiously unaffiliated.<sup>2</sup> By including Christian symbolism, the County is alienating its non-Christian citizens. Now is the time to correct the mistakes of the past and to embrace the County's diversity and respect its obligation to religious neutrality. In *Harris*, the court said, "No appeal to history can abate that message when the images in the seal are abstract symbols of a particular Christian sect." 927 F.2d at 1415.

We urge the County to discontinue using this unconstitutional seal and to adopt a new representation of the County that is inclusive of all of its citizens. We request a written response to our request with the steps the County will take to uphold its constitutional obligations so that we may inform our complainants.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen M. Heineman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen M. Heineman  
*Patrick O'Reiley Legal Fellow*  
*Freedom From Religion Foundation*

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<sup>2</sup> *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.