

FREEDOM FROM RELIGION *foundation*

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April 5, 2023

SENT VIA FAX & U.S. MAIL: 304-623-7683

Barbara Forsha
Executive Director
Louis A. Johnson Veterans' Administration Medical Center
1 Medical Center Drive
Clarksburg, WV 26301

Re: Latin cross display on VA property

Dear Director Forsha:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at the Louis Johnson VA Hospital in Clarksburg. FFRF is a national nonprofit organization with over 40,000 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.

A concerned community member and disabled veteran reported that on March 13, 2023, they observed a large wooden Latin cross affixed to a mirror hanging on a wall in the COVID-19 screening room of Louis Johnson VA Hospital (“the Hospital”). Our complainant had to undergo a COVID-19 screening prior to undergoing surgery at the Hospital. Our complainant explained that the religious display made them “very uncomfortable” due to past religious trauma and abuse. Further, our complainant stated that “I fought for my country so that I, and others, would not have to witness state/church entanglement as a captive audience.”

We write to request that the Hospital investigate this situation and ensure that this unconstitutional religious display is removed.

Our Constitution’s Establishment Clause—which protects Americans’ religious freedom by ensuring the continued separation of religion and government—dictates that the government cannot in any way show favoritism toward religion. The Supreme Court has held that the First Amendment requires government neutrality between religions, and between religion and nonreligion. *See McCreary Cty. v. ACLU*, 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). By displaying a Latin cross in a location that hospital patrons like our complainant will inevitably observe, the Hospital signals blatant favoritism towards religion over nonreligion, and Christianity above all other faiths.

The religious significance of the Latin cross is indisputable. Federal courts have agreed that the Latin cross universally represents the Christian religion, and only the Christian religion. *See, e.g., Separation of Church & 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). This religious display needlessly alienates and offends veterans who do not subscribe to Christianity. In fact, nearly thirty percent of military personnel identify as nontheist, humanist, or are simply unaffiliated with a particular religion.¹

Moreover, the Supreme Court’s decision in *Am. Legion v. Am. Humanist Ass’n*, 139 S. Ct. 2067 (2019) does not apply to this cross display. In that case, the Court held that retaining long-established religious monuments is different from erecting new ones. While the Court held in *Am. Legion* that some religious symbols, including Latin crosses, could acquire a secular meaning over time if a specific set of criteria are met, those criteria are not met here. The Latin cross in the Hospital’s COVID-19 screening room is not historical and has not acquired a secular meaning in the short time it has been in place.

We ask that the Hospital remove the cross from the COVID-19 screening room. At the very least, the cross should be moved to an appropriate, private location where it will not be visible to hospital patrons or visitors. Please inform us in writing of the steps the Hospital is taking to resolve this matter so that we may inform our complainant.

Sincerely,

A handwritten signature in black ink, reading "Samantha F. Lawrence". The signature is fluid and cursive, with the first name "Samantha" being more prominent and the last name "Lawrence" following in a similar style.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

¹ Jason Torpy, *Chaplain Endorsements Continue to Diverge from Military Personnel*, MAAF (Nov. 14, 2019), <https://militaryatheists.org/news/2019/11/chaplain-endorsements-continue-to-diverge-from-military-personnel/>.