

FREEDOM FROM RELIGION *foundation*

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

fApril 29, 2024

SENT VIA EMAIL AND U.S. MAIL: Lucas.Thompson@co.itasca.mn.us

Lucas Thompson
Jail Administrator
Itasca County Jail Division
108 NE Fifth Street
Grand Rapids, MN 55744

Re: Unconstitutional Ten Commandments display and proselytizing quotes in jail

Dear Mr. Thompson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the Ten Commandments display and proselytizing quotes at the Itasca County Jail. FFRF is a national nonprofit organization with more than 40,000 members across the country, including over 800 members and two chapters in Minnesota. 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 class of concerned Itasca County taxpayers and residents have informed us that the new Itasca County Jail will surround prisoners with quotes about the importance of religion along with the Ten Commandments. Independent media confirms that account.¹ Several selective quotes from politicians promoting religion are also spread throughout the jail. For instance, “Within the covers of the bible are the answers for all the problems men face.’ - Ronald Reagan” and “If we ever forget we're one nation under God, then we will be one nation gone under.’ - Ronald Reagan” are marked above cellblocks. “I tremble for my Country when I reflect that God is Just: that his justice cannot sleep forever.’ Thomas Jefferson” is placed on a glass door. Please see the enclosed photos.

We write to ask the County to investigate and remove the Ten Commandments display along with select quotes on religion.

A Ten Commandments display, especially where the government holds a captive audience, violates the Establishment Clause of the First Amendment. In *McCreary Cnty. v. Am. Civil Liberties Union*, 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, “[t]he 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 Ed. of Ewing*, 330 U.S. 1, 15–16 (1947), *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985).

¹ <https://www.facebook.com/share/LUfRWumfkJBzVR6m/?>.

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. By displaying this religious text in its jail, the County demonstrates a plain and undeniable preference for religion over nonreligion, and for those religions which subscribe to the Ten Commandments above all other faiths.

Further, other non-historical Ten Commandments displays have been struck down by federal courts. *See, e.g., Felix v. Cty. of Bloomfield*, 841 F.3d 848 (10th Cir. 2016), *cert. denied*, 138 S.Ct. 357; *Am. Civil Liberties Union of Ohio Found. v. Deweese*, 633 F.3d 424 (6th Cir. 2011), *cert. denied*, 131 S.Ct. 368; *Green v. Haskell Cnty. Bd. of Com'rs*, 568 F.3d 784 (10th Cir. 2009), *cert. denied*, 130 S.Ct. 1687. When municipalities unsuccessfully defend unconstitutional Ten Commandments 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. Cty. 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).

The quotes advising prisoners to find answers in the bible and believe in God should also be removed. Constituents—including prisoners—have the right to be free from government proselytization. Prisoners do not shed their rights by virtue of being in prison. Federal courts of appeals have held that public prisons cannot coerce or otherwise promote religion to prisoners. *See generally Inouye v. Kemna*, 504 F.3d 705, 714 n.9 (9th Cir. 2007); *Warner v. Orange Cnty. Dep't. of Probation*, 115 F.3d 1068 (2nd Cir. 1997); *Jackson v. Nixon*, 747 F.3d 537 (8th Cir. 2014); *Kerr v. Ferrey*, 95 F.3d 472, 480 (7th Cir. 1996). By suggesting that the bible holds “the answers for all the problems men face,” the jail sends an ancillary message—to a captive audience—that those who practice Christianity during their stay will get favored treatment over those who do not. Prisoners are perhaps the most obvious example of a captive audience. Their captivity requires more care in safeguarding their rights, not less, and government is obligated to not preach any one religion to them while they are captive.

The Supreme Court has held that public officials may not seek to favor or promote religion, specifically stating, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or

other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Va. Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943). In only using bible quotes, and not quotes about citizenship or other secular virtues, the jail promotes Christianity as the answer to prisoners’ woes. That is unconstitutional. Furthermore, the references to the Christian Bible and Ten Commandments alienate the nearly thirty-seven percent of Americans who are non-Christian, including the thirty percent of Americans who are non-religious.²

Out of respect for its constitutional obligations under the First Amendment’s Establishment Clause, and the religious diversity of all prisoners, the jail should remove the Ten Commandments display and any quotes promoting religion. Please respond in writing with the steps that the jail will take to remedy this constitutional violation. Thank you for your time and attention.

Sincerely,

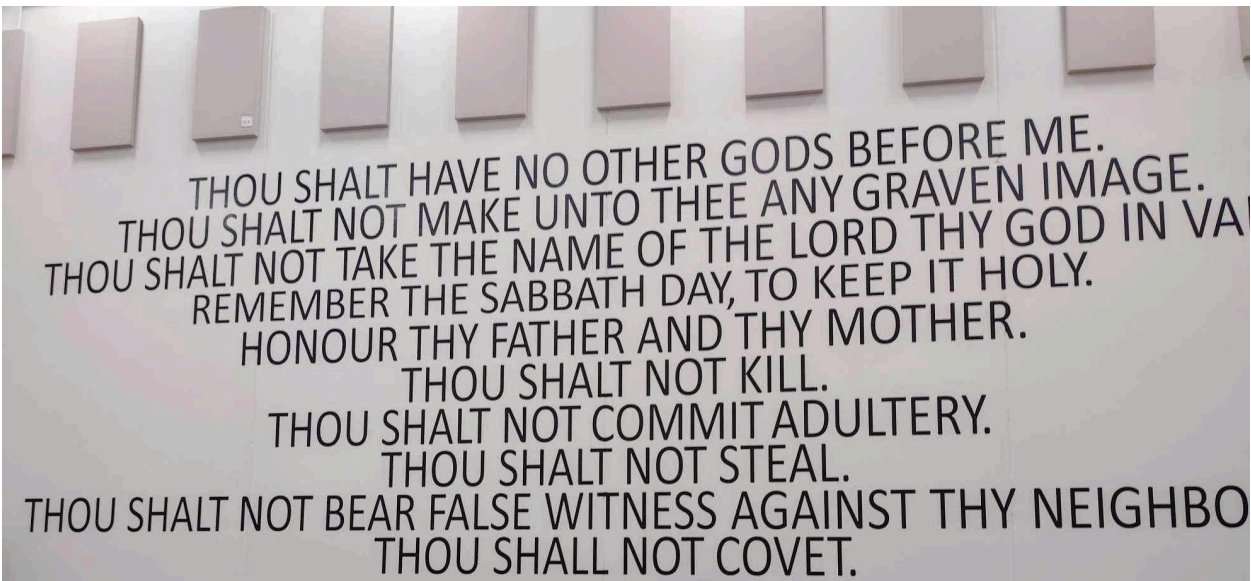


Hirsh M. Joshi
Patrick O’Reiley Legal Fellow
Freedom From Religion Foundation

Enclosures

CC: Lucas Thompson, Jail Administrator: Lucas.Thompson@co.itasca.mn.us
Itasca County Commission: Cory.Smith@co.itasca.mn.us;
Terry.Snyder@co.itasca.mn.us; John.Johnson@co.itasca.mn.us;
Burl.Ives@co.itasca.mn.us; Casey.Venema@co.itasca.mn.us
Joe Dasovich, Itasca County Sheriff’s Office: Joe.Dasovich@co.itasca.mn.us

² Gregory A. Smith, *Religious ‘Nones’ in America: Who They Are and What They Believe*, Pew Research Center, Jan. 24, 2024, <https://www.pewresearch.org/religion/2024/01/24/religious-nones-in-america-who-they-are-and-what-they-believe/>.



THOU SHALT HAVE NO OTHER GODS BEFORE ME.
THOU SHALT NOT MAKE UNTO THEE ANY GRAVEN IMAGE.
THOU SHALT NOT TAKE THE NAME OF THE LORD THY GOD IN VAIN.
REMEMBER THE SABBATH DAY, TO KEEP IT HOLY.
HONOUR THY FATHER AND THY MOTHER.
THOU SHALT NOT KILL.
THOU SHALT NOT COMMIT ADULTERY.
THOU SHALT NOT STEAL.
THOU SHALT NOT BEAR FALSE WITNESS AGAINST THY NEIGHBOUR.
THOU SHALT NOT COVET.

