

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL, U.S. MAIL & FAX: district8@jeffil.us; (618) 244-8029

Board Chair Cliff Lindemann
Jefferson County Board
100 South Tenth Street
Mount Vernon, IL 62864

Re: Unconstitutional Ten Commandments display

Dear Chair Lindemann:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation at the Jefferson County Courthouse. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 1,100 members and a local chapter in Illinois. 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 are aware, and local media confirms,¹ that a Ten Commandments display was recently installed at the Jefferson County Courthouse in Mount Vernon. The display is nearly six-and-a-half feet tall and sits in the center of the first floor lobby. The display includes a Protestant version of the Ten Commandments, given its particular language and numbering. At the bottom of the Ten Commandments display is a bible quote for Proverbs 21:15, which reads “when justice is done, it is a joy to the righteous but terror to the evildoers.” Please see the enclosed picture.

Government promotion of one particular religion deters the non-religious and minority religions from accessing important government services. We request that the County remove the Ten Commandments display from the courthouse in order to comply with the U.S. and Illinois constitutions.

In *McCreary Cnty. v. Am. Civil Liberties Union*, 545 U.S. 844 (2005), the Supreme Court ruled that modern 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 Educ. of Ewing*, 330 U.S. 1, 15–16 (1947), *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985).

¹ Travis Morse, *Ten Commandments monument erected at Jefferson Co. Courthouse*, The Morning Sentinel, Aug. 28, 2024, <https://www.morningsentinel.com/2024/08/28/ten-commandments-monument-erected-at-jefferson-co-courthouse/>.

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 courthouses, the County demonstrates a plain and undeniable preference for religion over nonreligion, and Protestant Christianity above all other faiths.

Further, other non-historical 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 (2017); *Am. Civil Liberties Union of Ohio Found. v. Deweese*, 633 F.3d 424 (6th Cir. 2011), *cert. denied*, 132 S.Ct. 368 (2011); *Green v. Haskell Cnty. Bd. of Com'rs*, 568 F.3d 784 (10th Cir. 2009), *cert. denied*, 130 S.Ct. 1687 (2010). 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. 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); *Freedom From Religion Found. 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 state constitutional grounds for removal stand as an independent reason requiring removal of the display. Illinois's Establishment Clause reads "No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship." Ill. Const. Art. I. § 3. We are confident that state courts will find that a large Protestant Ten Commandments display by the County demonstrates preference for a religious denomination and mode of worship.

In the local media, Jefferson County Sheriff Jeff Bullard asserted that the Supreme Court of the United States's decision in *Kennedy v. Bremerton School District* allows him to erect a Ten Commandments monument. 597 U.S. 507 (2022). That is wrong for a few reasons. First, while the *Lemon* test was "abandoned" after *Kennedy*, that does not in any way overturn the *McCreary* decision. Second, *Kennedy* dealt with the Free Speech and Free Exercise rights of a private individual's speech; not so here, it is uncontroversial that this monument constitutes government speech. Third, the monument is not part of Jefferson County's longstanding history, because the

monument was erected less than a week ago. This does not come close to the so-called “history and tradition test” which was discussed in *Kennedy*. Even within a historical framework, there is no historic authority providing that the Establishment Clause permits a county government to adopt and give preference to particular religious commandments. Bullard’s idea that *Kennedy* controls this dispute is deeply incorrect.

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 Educ. v. Barnette*, 319 U.S. 624, 642 (1943). In displaying a gigantic Protestant version of the Ten Commandments along with a bible quote, and not quotes about citizenship or other secular virtues, the county government demonstrates preference for Christianity. 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

To respect the First Amendment and the Illinois Constitutional rights of all those who use the Jefferson County courthouse, please remove the Ten Commandments display. Please respond in writing with the steps that the County 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

Enclosure

CC: Jefferson County Board via email at jeffcoboard@jeffersoncounty.illinois.gov

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/>.

