

FREEDOM FROM RELIGION *foundation*

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February 13, 2015

SENT VIA MAIL AND EMAIL TO: jturnbach@twlegal.us

James E. Turnbach
Turnbach, Warren, Lloyd, Frederick & Smith, P.C.
P.O. Box 129/200 Chestnut Street
Gadsen, AL 35902

Re: Christian Flag at Glencoe's City Hall Building

Dear Mr. Turnbach:

We write again, this time to object to Glencoe's practice of flying the Christian flag on the City Hall Building lawn. A concerned local resident contacted us about this matter. We still await your responses to our January 12, 2015 and February 11, 2015 letters concerning nativity displays.

It is our information that the Christian flag flies daily at the Glencoe City Hall Building, beside the Alabama and American flags. Please see the attached images.

The Christian flag was designed by Protestants in the early Twentieth Century and continues to be displayed in Protestant churches throughout the country. It features a Latin cross—the most significant symbol of Christianity. Moreover, each of the flag's colors represents a different aspect of Christianity: blue refers to ritual baptism in water, white to Biblical conceptions of purity, and red to the crucifixion of Jesus Christ.

It is unconstitutional for a government entity to fly a flag with a patently religious symbol and meaning on its grounds. You must take immediate action and refrain from hoisting this flag up the flagpole at the City Hall Building.

The religious significance of the Latin cross is unambiguous and indisputable. "The Latin cross... is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point." *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995) (Souter, J., concurring). An overwhelming 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, 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).

A majority of federal courts have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and County of San Diego*, 93 F.3d 627,632 (9th Cir. 1996); *Friedman v. Bd. of County Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); *ACLU v. Rabun County Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984).

The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and the overall display promotes Christianity. The display of this patently religious symbol on City property confers government endorsement of Christianity, a blatant violation of the Establishment Clause.

The cross on the flag pole of Glencoe’s City Hall building unabashedly creates the perception of government endorsement of Christianity. It conveys the message to the twenty-six percent of the U.S. population who are not Christians that they are not “favored members of the political community.” *Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Glencoe political outsiders.

Americans United for Separation of Church and State filed a lawsuit in 2012 when the City of King North Carolina refused to remove a Christian flag identical to the one at issue here. *See Hewett v. City of King*, Case No. 1:12CV1179 (M.D.N.C. Nov. 2012). The City settled the lawsuit for \$500,000 and incurred more than \$50,000 in legal expenses.

As we have noted in previous letters, we prefer to resolve these disputes amicably, without a lengthy and costly court battle. The display of this Christian flag however, is a brazen affront to the Establishment Clause of the United States Constitution. We ask you to remove the Christian flag from the City Hall grounds immediately. We would also appreciate a prompt response from you, in writing, informing us of the steps the Glencoe will take to resolve this matter.

Sincerely,



Andrew L. Seidel
Staff Attorney

ALS:jki

Enc.

