



Rhode Island State Council of Churches and the Rhode Island Bible Society

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February 5, 2019

The Hon. Peter Neronha
Attorney General
150 South Main Street
Providence, RI. 02903

Dear Attorney General Neronha:

As representatives of organizations both religious and secular, and as members of various faiths and no faith, we write to you with a unified request: that you remove the State of Rhode Island's name from a troubling *amicus curiae* brief filed in the U.S. Supreme Court and gratuitously joined in by your predecessor during his last week in office. The Court's decision in this pending case could lead to a fundamental breach in the wall of separation of church and state and undermine decades of prior judicial precedent designed to protect the First Amendment's Establishment Clause.

The case involves a legal challenge to a 40-foot tall Christian cross that is owned and maintained by a government agency – the Maryland-National Capital Park and Planning Commission – and stands on public land in Bladensburg, Maryland. The legal issue is whether this cross, which was erected after World War I as a memorial to that war's fallen soldiers and which to this day continues to be a prominent site for Christian services, can, consistent with the First Amendment, be sponsored and supported by the government.

The Fourth Circuit Court of Appeals said no, and we emphatically agree with that Court's conclusion. *American Humanist Association v. Maryland-National Capital Park and Planning Commission*, 874 F.3d 195 (4th Cir. 2017). Unfortunately, at the end of December, Former Attorney General Kilmartin, alone among his New England colleagues, joined with state Attorneys-General from elsewhere in the country to urge the Supreme Court to uphold the constitutionality of this government-supported religious symbol.

People of no faith and people of all faiths - including Jews, Muslims and others - have sacrificed themselves for our country. To purport to honor all of them with a 40-foot symbol that is at the heart of Christianity is both a degradation of a sacred symbol and an insensitive attempt to impose the religious views of the majority on the minority. It thus undermines the two major goals of the First Amendment's religion clauses.

Rhode Island's participation in this brief does a disservice to the legacy of this state and its founder. Roger Williams' principle of separation of church and state remains a cornerstone of our constitutional system, and Rhode Island, of all states, should not be promoting its demise. But that is exactly what our State's participation in this court brief does.

Calling this huge display of a religious symbol merely part of a “national tradition,” as the States’ brief argues, damages our greater national traditions of pluralism and the separation of church and state. In any event, the symbolism of the cross represents, first and foremost, a religious tradition, not a national one, and one that by its very nature and meaning is tied to one particular religion. The many Jews, Muslims, atheists and other non-Christian soldiers who fought just as bravely and sacrificed just as much are inherently excluded by the government’s sponsorship of a Christian cross.

For some of us as Christians, the States’ position also inappropriately co-opts the meaning of this sacred symbol. By arguing in the brief that “as a memorial intended to honor fallen soldiers, a cross conveys not only a religious message, but a secular and historical message as well,” the government is deigning to tell religion what its symbols mean. But that is not the government’s role. As one of the judges on the Fourth Circuit noted: “We should be wary of allowing the government – however innocuous such an allowance may initially seem – to define the principal meaning of a symbol that otherwise would be defined by those individuals to whom it brings meaning.” *American Humanist Association v. Maryland-National Capital Park and Planning Commission*, 891 F.3d 117, 122 (4th Cir. 2018) (Wynn, J., voting to deny the Petition to Rehear).

It is also worth remembering Justice William Brennan’s prescient admonition over 50 years ago that the Establishment Clause protects “not only the nonbeliever who fears the injection of sectarian doctrines and controversies into the civil polity, but in as high degree ... the devout believer who fears the secularization of a creed which becomes too deeply involved with and dependent upon the government.” *School of Abington Twp., Pa. v. Schempp*, 374 U.S. 203, 258 (1963) (Brennan, J., concurring).

Finally, we would be remiss in failing to point out the broader context and implications of this case. In its separate brief, the Trump administration seeks to use this case to abandon decades of precedent involving the meaning and interpretation of the First Amendment. That brief argues that the government may sponsor this 40-foot-tall symbol of the Christian faith because the First Amendment’s Establishment Clause should be interpreted to prohibit only “coercive” religious activities by government.

If the Supreme Court were to accept that position, the government could be free to sponsor, promote and support with tax dollars the displays of crucifixes, crosses and Christian prayers in government buildings and other public spaces just so long as no one was “coerced” into participating in these displays or activities. In fact, a few decades ago, the Supreme Court wisely rejected this very argument in the Rhode Island case of *Lee v. Weisman*, in which public school graduation prayers were declared unconstitutional. Rhode Island should not be a party to the renewal of this dangerous effort in 2019.

In sum, the First Amendment guarantees individuals and religious organizations the right to build a Christian-only monument and conduct Christian services to honor veterans. But that same constitutional protection should not allow such a display on public land and supported by public dollars.

For all these reasons, we respectfully urge you to withdraw Rhode Island’s name from this brief and instead continue to promote our state’s rich history of devotion to religious freedom for all.

On behalf of all the signatories, Rev. Anderson will serve as the contact for this letter, and she hopes to be in touch with you within the next few days to discuss this request further. Please feel free to reach out directly to her at the contact info below. We thank you in advance for considering our views.

Sincerely,

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