

FREEDOM FROM RELIGION *foundation*

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December 13, 2018

SENT VIA EMAIL AND U.S. MAIL:
drew@drewmarkel.com

County Commissioners
Jackson County Courthouse
220 E. Walnut Street
Brownstown, IN 47220

Re: Nativity scene on public property

Dear Jackson County Commissioners:

I am writing on behalf of the Freedom From Religion Foundation regarding an unconstitutional nativity scene sponsored by Jackson County. FFRF is a national nonprofit organization with 32,000 members across the country, including 450 members in Indiana. FFRF's 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 local resident contacted us to report that the front lawn of the Jackson County Courthouse in Brownstown is decorated with a prominent, life-size light display depicting a Christian nativity scene, including Mary, Joseph, Jesus, heralding angels, and magi bearing gifts. As the enclosed photograph shows, the display spans both sides of the courthouse's front lawn and there are no other visible holiday decorations.

It is unlawful for the County to maintain, erect, or host a holiday display that consists solely of a nativity scene, thus singling out, showing preference for, and endorsing one religion. We request that this religious display be removed immediately.

The Supreme Court has ruled it is impermissible to place a nativity scene as the sole focus of a display on government property. *See Cty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1984). In *Allegheny*, the Supreme Court held that a county government's crèche displayed on the staircase of the county courthouse was an unconstitutional endorsement of religion. The Court stated:

Lynch v. Donnelly confirms, and in no way repudiates, the longstanding constitutional principle that government may not engage in a practice that has the effect of promoting or endorsing religious beliefs. The display of the crèche in the county courthouse has this unconstitutional effect. 492 U.S. at 621.

The Court further determined that the placement of the crèche on the Grand Staircase of the county courthouse contributed to its illegality because “no viewer could reasonably think it occupies this location without support and approval of the government.” *Id.* at 599-600. Moreover, the Court found that the nativity scene “sen[t] an unmistakable message that [the county] supports and promotes the Christian praise to God that is the crèche’s religious message.” *Id.* at 600.

It is irrefutable that the crèche is a religious, Christian symbol. *See Lynch*, 465 U.S. at 711 (1984) (Brennan, J. dissenting) (stating that the crèche is a “re-creation of an event that lies at the heart of the Christian faith”). Displaying an inherently Christian message unmistakably sends the message that Jackson County endorses the religious beliefs embodied in the display. When the County displays this manger scene, which depicts the legendary birth of Jesus Christ, it signals the government’s approval of Christianity. This excludes the 30% of Americans who are not Christian, including the 24% who are nonreligious.¹ Putting up a nativity scene sends the exclusionary message to these nonbelievers and non-Christians that they are outsiders in their own community.

There are ample private and church grounds where religious displays may be freely placed. Once the government enters into the religion business, conferring endorsement and preference for one religion over others, it strikes a blow at religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship. We request a response in writing about the steps you are taking to remedy this violation of the First Amendment.

Sincerely,



Ryan D. Jayne
Staff Attorney

Enclosure

¹ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.prri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

