

FREEDOM FROM RELIGION *foundation*

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

November 27, 2018

SENT VIA U.S. MAIL & EMAIL
commissioners@co.hocking.oh.us

Jeff Dickerson, President
Hocking County Commissioners
1 E. Main St.
Logan, OH 43138

Re: Nativity Scene on Public Property

Dear Mr. Dickerson and Commissioners:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional nativity scene on display at the courthouse. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with about 32,000 members across the country, including over 800 members in Ohio. 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.

Last year, we wrote to the Hocking County Clerk regarding a nativity scene that is on display on the Hocking County Municipal Courthouse. We were told that you have jurisdiction over the building.

As we alerted the clerk last year, our local resident complainant reports that the nativity is depicted through a scene made of lights and green garland on the facade of the courthouse. We understand this display goes up each year after Thanksgiving. Please see enclosed pictures of the scene which has been on display since at least 2015.

It is unlawful for Hocking 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. The Supreme Court has ruled it is impermissible to place a nativity scene as the sole focus of a display on government property. *See Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1983).

In *Allegheny*, the Supreme Court held that a county government's crèche displayed in 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 Hocking County endorses the religious beliefs embodied in the display. When the government displays this manger scene, which depicts the legendary birth of Jesus Christ, it signals the government’s approval of Christianity. This excludes the nearly 30% of Americans who are not Christian, including the 23% 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 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,



Rebecca S. Markert
Legal Director

Enclosures

¹ America’s Changing Religious Landscape, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.



