

Christians Decry San Diego Court's Ruling on Memorial Cross

The U.S. Court of Appeals for the 9th Circuit issued a 3-0 decision in *Trunk v. City of San Diego* Tuesday, holding that the memorial cross at Mt. Soledad violates the U.S. Constitution. The decision has led to outcry from numerous Christian groups.

The case, *Jewish War Veterans v. City of San Diego*, involves a 29-foot Latin cross that was erected in 1954 to honor U.S. veterans. The plaintiffs want the cross taken down because it stands on public land.

In the ruling, the court stated, "After examining the entirety of the Mount Soledad Memorial in context – having considered its history, its religious and non-religious uses, its sectarian and secular features, the history of war memorials and the dominance of the Cross – we conclude that the Memorial, presently configured and as a whole, primarily conveys a message of government endorsement of religion that violates the Establishment Clause. This result does not mean that the Memorial could not be modified to pass constitutional muster nor does it mean that no cross can be part of this veterans' memorial. We take no position on those issues."

The American Center for Law and Justice (ACLJ), which filed an amicus brief behalf of 25 members of Congress in support of the Mt. Soledad Veterans Memorial in San Diego, says the decision by a federal appeals court declaring the memorial unconstitutional is flawed and represents "a judicial slap in the face" to our military veterans.

"This flawed decision not only strikes at the heart of

honoring our military veterans, it reaches a faulty conclusion that this iconic memorial—part of the historic landscape of San Diego—is unconstitutional,” said Jay Sekulow, Chief Counsel of the ACLJ, which has been active for years in defending the constitutionality of the memorial and its cross.

“We believe the appeals court got this decision wrong and we look forward to the case going to the Supreme Court where we’re confident this decision will be overturned. We’re already preparing for the next chapter in this decades-old challenge and plan to file an amicus brief at the high court in support of the constitutionality of the memorial on behalf of members of Congress.”

The American Legion called on the Justice Department to appeal the decision with the U.S. Supreme Court. Jimmie Foster, national commander of the nation’s largest veterans organization, is asking Attorney General Eric Holder to the decision to the Supreme Court.

“The sanctity of this cross is about the right to honor our nation’s veterans in a manner which the overwhelming majority supports,” Foster says. “The American Legion strongly believes the public has a right to protect its memorials.”

Alliance Defense Fund Senior Counsel Joe Infranco says war heroes have earned the right to be remembered. As he sees it, the memory of those who sacrificed their lives for our freedom shouldn’t be dishonored because the ACLU finds a small number of people who are merely offended.

“It’s tragic that the court chose a twisted and tired interpretation of the First Amendment over the common-sense idea that the families of fallen American troops should be allowed to honor these heroes as they choose. No one is harmed, constitutionally or otherwise, by the presence of a cross on a war memorial. There is great harm to tearing these memorials down. The memorial cross should stand in honor of

the sacrifice made by American troops.”