

Atheists Fail to Rewrite History With Attack on Ground Zero Cross

The American Center for Law and Justice (ACLJ) said Monday's decision by a federal appeals court upholding the display of a cross at New York's 9/11 memorial represents a "significant constitutional victory." The Christian-led organization had filed an amicus brief on behalf of more than 230,000 Americans who were urging the court to protect the cross at the Memorial at The National September 11 Memorial & Museum in lower Manhattan.

A three-judge panel of the U.S. Court of Appeals for the Second Circuit Monday ruled that a challenge by the American Atheists "fails on the merits" and upheld the display of the Ground Zero Cross.

"We argued from the beginning that this was a flawed legal challenge designed to re-write history and eliminate a powerful historical artifact," said Jay Sekulow, chief counsel of the ACLJ. "This bizarre legal challenge from an atheist group was exposed for what it was—a skewed legal challenge that had no merit. We're extremely pleased that the appeals court rejected this bogus argument and upheld the September 11 Memorial Museum's desire to acknowledge the cross's actual, historic role in the aftermath of the tragic attack in New York. This decision is a significant constitutional victory that protects the freedom to display religiously themed artifacts of historical or artistic significance without running afoul of the Constitution."

The cross at the museum is fashioned by two intersecting steel beams that survived the Twin Towers' collapse following a terrorist attack using airliners on Sept. 11, 2001.

American Atheists filed a federal suit in 2012 claiming the cross is unconstitutional. They assert they are suffering from both physical and emotional damages from the mere existence of the cross, resulting in headaches, indigestion, even mental pain. A federal district court dismissed the lawsuit, and then the atheist group filed an appeal in the case.

In the amicus brief submitted in November in the U.S. Court of Appeals for the Second Circuit, the ACLJ noted that the U.S. Supreme Court has held that such exhibits like the cross are constitutionally permissible and do not violate the Establishment Clause of the Constitution's First Amendment.

The ACLJ brief argued the cross is a "historical artifact of the September 11 attacks" and "historical artifacts—even religious artifacts—have long been placed in America's public museums without doing violence to the Constitution. Any ruling to the contrary would lead to absurd results."

In its brief, posted here, the ACLJ represented itself and more than 230,000 Americans who signed on to the Committee to Protect the Ground Zero Cross.

In a unanimous decision issued Monday by a three-judge panel of the appellate court, the judges rejected the legal challenge by the atheists group ruling that, "We conclude that American Atheists' challenge fails on the merits. Accordingly, we hereby affirm the judgment in favor of appellees."

The case is *American Atheists v. Port Authority of New York and New Jersey*.