

Court Officially Dismisses Atheist's Case to Remove Nativity Scene From Courthouse Display

A federal district court judge has dismissed a case in which an atheist group attempted to permanently remove a Nativity scene on government property.

Judge Jon DeGuilio dismissed the American Civil Liberties Union of Indiana's case against Fulton County's constitutional right to display its annual Nativity scene on the courthouse lawn. Liberty Counsel represents Fulton County, and the court also required the ACLU to reimburse Liberty Counsel for some out-of-pocket costs.

The court also denied the ACLU's preliminary injunction last November, which allowed Fulton County to display the Nativity scene as has been tradition annually since 1980.

The ACLU and Roger Lamunion first brought a lawsuit in 2018 to challenge the constitutionality of an annual holiday display on the grounds of the courthouse. Although two Christmas seasons have already come and gone since they sued, the plaintiffs now belatedly sought a preliminary injunction as "an extraordinary and drastic remedy" to ban the Nativity scene from this year's holiday season. In addition, Lamunion is not even a resident of Fulton County, and he has failed to demonstrate that he has suffered harm or has just cause to bring this action.

The Rochester Optimist Club is a volunteer organization dedicated to improving the lives of youth through service projects and civic engagement and has owned, stored and maintained the holiday display for nearly 40 years. In

addition to the Nativity scene, the Fulton County display includes a Santa house, Santa Claus, lighted reindeer, snowman and candlestick.

The U.S. Supreme Court and numerous federal appeals courts have recognized that government entities may recognize Christmas as a holiday and may maintain Christmas displays that include both religious and secular symbols. Therefore, this display does not violate the First Amendment and includes all the elements federal courts have held to be constitutional.

Liberty Counsel founder and chairman Mat Staver said, "Fulton County will be able to include the Nativity scene in this year's holiday display as they have done for many years. Publicly sponsored Nativity scenes on public property are constitutional, especially when the display includes other secular symbols of the holiday. The Supreme Court and many federal courts have upheld Nativity displays. In fact, removing only the religious symbols of the holiday display would demonstrate hostility toward religion, which the First Amendment forbids."

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