

Judge Orders Removal of San Diego War Memorial Cross

A federal district court judge in California ordered the removal of the Mt. Soledad Veterans Memorial in San Diego late Thursday.

The American Center for Law and Justice (ACLJ) said the decision is “deeply flawed” and promised to file an amicus brief in support of an expected appeal to keep the memorial—which includes a commemorative cross—in place.

“This latest decision in the long and winding legal road concerning the constitutionality of the Mt. Soledad Veterans Memorial is deeply flawed,” says Jay Sekulow, chief counsel of the ACLJ, which has been active for years in defending the constitutionality of the memorial and its cross.

“The federal court decision declaring the memorial unconstitutional and ordering its removal does not square with the facts. This memorial is part of the historic landscape of San Diego and is consistent with the Establishment Clause of the **First Amendment**.”

This new legal decision is the result of action that occurred in 2012 when the U.S. Supreme Court refused to take the case, leaving in place a decision by the Ninth Circuit declaring the memorial unconstitutional and sending the case back to the trial court in San Diego. The ACLJ urged the **Supreme Court** to take the case at the time, filing an amicus brief representing 34 members of Congress.

In an amicus brief filed in August with the U.S. District Court representing 18 members of Congress, the ACLJ urged the court to permit a private organization to obtain and operate the war memorial—a remedy that would remove any constitutional questions and keep the monument and cross in place.

Thursday, U.S. District Judge Larry Burns ruled that the memorial must be removed because it violates a constitutional ban on government endorsement of religion.

“Deliberate language in the opinion makes it clear that removal of the large, historic cross is the only remedy that the Ninth Circuit conceives will cure the constitutional violation,” Burns wrote in his ruling. Burns ordered the memorial be removed within 90 days but put that order on hold, pending an expected appeal.

“We will continue to aggressively argue in support of this memorial and commemorative cross,” Sekulow says. “We believe the law and precedent are clear: The Supreme Court has concluded in the past that ‘a Latin cross is not merely a reaffirmation of Christian beliefs. It is a symbol often used to honor and respect those whose heroic acts, noble contributions and patient striving help secure an honored place in history for this nation and its people.’ This memorial should not create a constitutional crisis. It is part of the history and heritage of the San Diego area.”