



## FREEDOM FROM RELIGION FOUNDATION

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December 10, 2008

Fran Gillet, Tom Raymus and Robert Sawicki  
Road Commission of Macomb County  
117 S Groesbeck Hwy  
Mount Clemens MI 48043-2183

Dear Commissioners:

I am writing on behalf of a concerned Macomb County resident, who objects to the erection and maintenance of a nativity scene on County property. Freedom From Religion Foundation (FFRF) is a national nonprofit organization based in Madison, Wisconsin, with over 13,000 members across the country. Our purpose is to protect the fundamental constitutional principle of separation of church and state.

It is our information and understanding that a nativity scene has been erected in the median at the intersection of Mound Road and Chicago Road in the city of Warren. Our complainant informs us there is a sign inside the glass-enclosed crèche that reads: "In Memory of Joseph and Rose Satawa." Additionally, there is a wooden sign that states "A blessed Christmas, St. Anne Parish."

It is unlawful for the Road Commission of Macomb 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 *Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1983).

In *County of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989), 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." *Id.* 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 v. Donnelly*, 465 U.S. 668, 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 at a busy intersection on County-owned property unmistakably sends the message that Macomb County endorses the religious beliefs embodied in the display. When the County displays this manger scene, which depicts the legendary birth of Jesus Christ, it places the imprimatur of the Macomb County government behind the Christian religious doctrine. This excludes citizens who are not Christian—Jews, Native American religion practitioners, animists, etc., as well as the significant and growing portion of the U.S. population that is not religious at all (14% of adults), including complainants and taxpayers in your county.

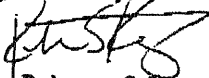
The constitutional concerns are not alleviated simply because the crèche is erected and/or owned by St. Anne Parish. The Supreme Court stated in *Allegheny*,

"[t]he fact that the crèche bears a sign disclosing its ownership by a Roman Catholic organization does not alter this conclusion. On the contrary, the sign simply demonstrates that the government is endorsing the religious message of that organization, rather than communicating a message of its own. But the Establishment Clause does not limit only the religious content of the government's own communications. It also prohibits the government's support and promotion of religious communications by religious organizations." *Id.*

There is further government entanglement because the illumination of the display is presumably provided by the city.

There are ample private and church grounds where religious displays may be freely placed, including, presumably, St. Anne's Parish, where this display clearly belongs. 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 ask that you immediately phone St. Anne's Parish to have them remove the display to private property. May we hear from you immediately about the steps you are taking to remedy this violation?

Sincerely,



Rebecca S. Kratz  
Staff Attorney