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Subject: Release - American Legion: Appeal Mt. Soledad Ruling

Attachments:

American Legion: Appeal Mt. Soledad Ruling

INDIANAPOLIS (Jan. 4, 2011) - Following today's ruling by the U.S. Court of Appeals for the Ninth Circuit, The American Legion called on the Justice Department to appeal the decision with the U.S. Supreme Court.

"I am asking Attorney General (Eric) Holder to appeal this regrettable decision to the Supreme Court," said Jimmie L. Foster, national commander of the nation's largest veterans organization. "The sanctity of this cross is about the right to honor our nation's veterans in a manner which the overwhelming majority supports. The American Legion strongly believes the public has a right to protect its memorials."

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 memorial's Latin cross, the traditional symbol used in World War I memorials, is surrounded by six concentric walls with names and photos of fallen soldiers, including other symbols such as Stars of David, and is dedicated to the memory of World War I, World War II and Korean War veterans.

In 1989, an atheist sued the city of San Diego for the removal of the memorial. The ACLU represents the Jewish War Veterans, which is also suing for its removal. Liberty Institute filed an amicus brief in support of the memorial on behalf of The American Legion.

"We intend to file an amicus brief with the Supreme Court in support of the appeal when it is made," Foster said. "Frankly, after having read the decision, I would say that it will take either the wisdom of King Solomon or the Supreme Court to resolve the issue."

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