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American Freedom Law Center Files Brief in U.S. Supreme Court in Defense of Mount Soledad Memorial Cross

Washington, D.C. — Today (March 14, 2012), the American Freedom Law Center (AFLC) filed a “friend of the court” brief in the U.S. Supreme Court in defense of the Mount Soledad Veterans Memorial. Specifically, AFLC is asking the Court to grant review and reverse the decision by the U.S. Court of Appeals for the Ninth Circuit, which held that the Mt. Soledad memorial cross violated the Establishment Clause. The brief was authored by AFLC Co-Founder and Senior Counsel Robert J. Muise.

AFLC’s brief was filed on behalf of former Navy pilot, prisoner of war, and U.S. Senator Rear Admiral Jeremiah Denton, USN (Ret.) and the families of Marine Majors Michael D. Martino and Gerald Bloomfield, III, both of whom were killed in combat in Iraq on November 2, 2005 when their Cobra attack helicopter was shot down by a surface-to-air missile. The memories and sacrifices of these war heroes are now preserved by plaques displayed at the foot of the Mt. Soledad cross.

AFLC’s brief presents a compelling, personal account of the importance of the Mt. Soledad memorial cross to the families and friends of those who sacrificed so much for our Nation. Muise echoed this point, “The purpose of our brief is to provide a voice in the Supreme Court that is not often heard. It is the voice of those who will be truly harmed in a real way by the destruction of this veterans’ memorial simply because it contains a religious symbols that has long been a part of our Nation’s religious heritage. For most reasonable American citizens, and particularly those who have sacrificed so much and whose sons, daughters, husbands, and wives have died defending our country, veterans’ memorials, including those with religious symbols, provide a lasting tribute to our servicemen and servicewomen.”

As Muise argued in AFLC’s brief:

From time immemorial, crosses have been used to memorialize fallen war veterans. A cross in the context of a war memorial has an undeniable historical meaning of self-sacrifice—in particular, of making the ultimate sacrifice for one’s country. . . . War memorials provide a place where family members, friends, and comrades of our war veterans can pay tribute to their heroes’ sacrifices. It is fitting that a memorial, which provides much comfort, peace, and solace for those who have sacrificed during time of war, contains a cross—a universal symbol of sacrifice. It would desecrate the memories of these war heroes to dismantle historic memorials by removing the crosses, as the Ninth Circuit’s decision requires in this case.

AFLC Co-Founder and Senior Counsel David Yerushalmi, an Orthodox Jew, commented, “There is nothing more sacred to a nation than the proper honor accorded its fallen war heroes. America’s heritage recognizes the memorial cross as one sign of this respect. To rewrite this country’s history and heritage in the context of this war memorial would be shameful.”

Muise further argued in the brief that the display of the memorial cross does not “establish” Christianity as a national religion in violation of the Establishment Clause. Rather, he noted, the removal of the cross exhibits “hostility toward religion,” which our Constitution forbids.

The brief concludes with a strong message for the Supreme Court:

In the final analysis, a memorial cross does not convey an impermissible message of endorsement of religion to an informed, reasonable observer. Rather, such memorials convey an unmistakably American message of patriotism and self-sacrifice. To dismantle this or any other historic memorial would desecrate the memories and the sacrifices of our war veterans and cause incalculable harm to these veterans and their families, friends, and comrades. Thus, this Court should reject the Ninth Circuit’s misguided efforts to destroy a national landmark and treasure based on a flawed view of the Constitution. At the end of the day, accepting the Ninth Circuit’s view of the law in this case will cause real and palpable harm.

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