



Written by [Dave Bohon](#) on November 12, 2018

# Supreme Court to Hear Case Over Embattled WWI Cross Memorial

One hundred years after the end of the “War to End All Wars,” the U.S. Supreme Court is poised to hear the case of the “Peace Cross,” a 40-foot-tall memorial in Bladensburg, Maryland (shown), erected in 1925 by the American Legion to memorialize the 49 soldiers from Prince George’s County who died during World War I.



In 1961, the American Legion turned over the monument and the land on which it is located to the state of Maryland, which has maintained it ever since.

Over 50 years later in 2014, the atheist group American Humanist Association (AHA) filed suit to have the monument removed, charging that the memorial represents a violation of the U.S. Constitution’s First Amendment, which supposedly requires total separation of religion and government.

In November 2015, Maryland’s U.S. District Court ruled in favor of the memorial, finding that despite its cross shape, its purpose was not primarily religious, and therefore was not in violation of the First Amendment’s “separation” clause.

But last year a three-judge panel of the U.S. Court of Appeals for the 4th Circuit ruled 2-1 that the memorial unacceptably endorses the Christian faith through the prominent display of a Latin-style cross. “The Latin cross is the core symbol of Christianity,” wrote Judge Stephanie Thacker in the majority opinion. “And here, it is 40 feet tall, prominently displayed in the center of one of the busiest intersections in Prince George’s County, Maryland, and maintained with thousands of dollars in government funds.”

The American Legion and other groups defending the cross memorial are being represented by conservative legal advocacy group First Liberty Institute, along with the Washington, D.C.-based law firm Jones Day. They are asking the Supreme Court to overturn the 4th Circuit’s condemnation of the memorial. “For nearly 100 years the memorial has stood to honor these 49 sons of Prince George’s County who made the ultimate sacrifice for their country,” said lead counsel Michael Carvin of Jones Day. “The Supreme Court should not allow their memory to be bulldozed.”

In a petition to the Supreme Court to hear the case, the American Legion warned that the 4th Circuit’s 2017 ruling could endanger countless other war memorials that use crosses to honor fallen soldiers, including the 24-foot Canadian Cross of Sacrifice and the 13-foot Argonne Cross, both which have stood in Arlington National Cemetery for generations.

“No other court has gone so far as to hold that a longstanding, historical war memorial that was built to be a war memorial and has only ever been a war memorial was unconstitutional,” reads the petition, “merely because its private builders chose to use a cross to honor their fallen loved ones.”

A separate petition filed by the state of Maryland likewise asks the High Court to rule in favor of the



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“peace cross.” Reads the state petition: “The Peace Cross has stood as a place of solemn commemoration and a source of civic unity for nearly a century. By compelling its removal, destruction or dismemberment, the [4th Circuit] panel’s decision will necessitate an act of shocking disrespect for the brave souls of Prince George’s County who died fighting for their country in World War I.”

In an unsuccessful petition urging the Supreme Court to deny a review of the case, the AHA insisted that the 4th Circuit’s ruling “not only advances religious liberty and equality for non-Christians, but also advances religious freedom for Christians, as many Christians believe the cross’s sacred status is denigrated when the government co-opts it as a symbol of war.”

Weighing in on the case, Rachel Laser of the atheist group Americans United for Separation of Church and State insisted that America’s fallen veterans should be remembered and honored “in ways that don’t promote a particular religion and that respect the religious diversity of Maryland’s citizens, including veterans. We urge the Supreme Court to affirm that this cross is unconstitutional.”

In response Kelly Shackelford, president of First Liberty Institute, charged that the entire case amounted to nothing less than an effort “to erase the memory of the service and sacrifice of these 49 fallen servicemen of Prince George’s County.”

He added that “if this monument is bulldozed to the ground, it’s only a matter of time before the wrecking ball turns on Arlington National Cemetery and the thousands of memorials like this one across the country.”

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