



Written by [Rebecca Terrell](#) on October 8, 2009

Supreme Court to Decide if Cross Violates Constitution

The fate of an 8-foot tall Latin Cross in the Mojave National Preserve sits in the crosshairs of a case before the United States Supreme Court, which will decide the constitutionality of this 75-year-old national monument to World War I veterans.

Ironically, the person who originally brought the case in California federal court, retired National Park Service employee Frank Buono, describes himself as a Christian, but said he was offended when the government denied a request to have a Buddhist memorial erected nearby. When the Court ordered the Park Service to remove the cross, Congress decided to sell the acre of land on which it stands to the local [Veterans of Foreign Wars](#) (VFW) chapter, the same group that erected the monument in 1934. Congress also withheld funds for removal of the cross and designated it a national memorial. An appeals court invalidated the 2004 land transfer, and the cross was covered with a large plywood box, awaiting final ruling.



The American Civil Liberties Union (ACLU), representing Buono, has now [appealed to the Supreme Court](#), which heard opening arguments on Wednesday. The more conservative justices seemed appeased by the sale of the land, but the more liberal of the court were not satisfied because the monument would retain its designation as a national memorial, thereby insinuating government endorsement and blurring the line separating church and state.

The public-interest law firm, American Center for Law and Justice (ACLJ), issued an *amicus* brief in June citing the support of 15 members of Congress. In it, the ACLJ points out that, in keeping with similar Supreme Court rulings, Buono never had standing to bring the case in the first place since he was merely an "offended observer." It argued that offended observer standing is flawed since it could be so easily abused by both individuals and the courts. The brief went on to say that in cases like these, the only "injury" is to the sensibilities of the plaintiffs, which should logically be grounds for dismissal.

The Supreme Court, contrary to its own rulings on similar cases, decided to uphold the original court's judgment in favor of Buono's legitimate standing. It will likely be months before a final decision is handed down.

VFW National Commander Glen Gardner warned in a [press release](#) that this case could set a dangerous precedent for national veterans' monuments. He said, "The ACLU will not be satisfied with the removal of this one memorial. If the Ninth Circuit's decision is allowed to stand, countless other similar veterans memorials will be endangered."



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