



State of Rhode Island and Providence Plantations

OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400

Peter F. Neronha
Attorney General

February 11, 2019

The Rev. Dr. Donnie Anderson
Executive Minister
Rhode Island State Council of Churches
100 Niantic Avenue, Suite 101
Providence, RI 02907-3118
danderson@councilofchurchesri.org

Re: The American Legion, *et al.*, v. American Humanist Association, *et al.* No. 17-1717, and Maryland-National Capital Park and Planning Commission v. American Humanist Association, *et al.* No. 18-18

Dear Rev. Dr. Anderson,

Thank you for your letter regarding the Bladensburg, Maryland “Peace Cross” cases (collectively “Maryland case”) currently before the United States Supreme Court. As your letter notes, in 2018, the prior administration joined a merits stage amicus brief submitted by West Virginia and other Attorneys General on behalf of the Petitioners in the above-captioned cases. Upon assuming office as Attorney General on January 1, 2019, I reviewed the cases before the Court and the amicus submission.

As a result of that review, I have concluded that had I been Attorney General at the time this Office was asked to join the amicus brief filed on behalf of the Petitioners, I would have declined to do so. This is not to say, however, that I would have joined an amicus brief filed in support of the opposite position. Let me explain why, given the opportunity to weigh in on either side, I would have demurred.

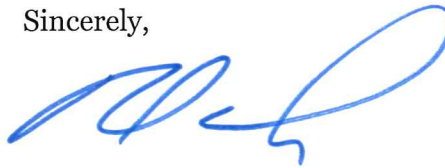
Certainly, I recognize the importance under both the United States and Rhode Island Constitutions of religious freedom, including the freedom not to practice any religion at all. I further recognize the importance, particularly given Rhode Island’s unique history, of separation of church and state, and the Constitution’s Establishment Clause. It is also important to recognize that under existing Supreme Court precedent, war memorials that honor veterans and include religious symbols do not in every instance violate the Establishment Clause. Rather, these cases are complicated, and, under Supreme Court precedent, are reviewed pursuant to a legal standard that involves a careful in-depth analysis of facts highly specific to the individual case.

The Maryland case is just such a case. Indeed, a reading of both the majority and dissenting opinions in the Fourth Circuit Court of Appeals decision, which the Supreme Court will soon review, demonstrates that both the majority and the dissenting opinions turned on a highly detailed examination and analysis of the history, use over time, size, and setting of the “Peace Cross,” in addition to several other case-specific factors.

At bottom, this is a Maryland case, not a Rhode Island one. It involves a Maryland monument to Maryland's honored war dead. The outcome of the case in the Supreme Court, as in the Fourth Circuit, will turn on an analysis of facts developed in a courtroom in Maryland, based on the testimony of witnesses from Maryland or, if not from Maryland, with knowledge of Maryland facts. These are not facts that can be readily placed in context from this distance. Accordingly, it is my view that this is not a matter in which the Attorney General of the State of Rhode Island should play a role.

Therefore, I have determined that the State of Rhode Island should withdraw its support of the amicus submission and informed the Clerk of the Court of this decision. I have enclosed a copy of this correspondence, which was also provided to the parties in the litigation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'P. Neronha', with a large, stylized flourish at the end.

Peter F. Neronha
Attorney General

Enclosure



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February 11, 2019

Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street NE
Washington, DC 20543

Re: The American Legion, *et al.*, v. American Humanist Association, *et al.* No. 17-1717, and
Maryland-National Capital Park and Planning Commission v. American Humanist
Association, *et al.* No. 18-18

Dear Mr. Harris,

This letter is to advise the Court that Rhode Island withdraws its support of the merit stage amicus brief submitted by West Virginia and other Attorneys General on behalf of the Petitioners in the above-captioned consolidated cases. I appreciate the Court's attention to this letter.

Sincerely,

Peter F. Neronha
Attorney General

cc: See Attached Service List

17-1717

AMERICAN LEGION, ET AL.
AMERICAN HUMANIST ASSOCIATION, ET AL.

18-18

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
AMERICAN HUMANIST ASSOCIATION

MICHAEL A. CARVIN
JONES DAY
51 LOUISIANA AVE., N.W.
MCARVIN@JONESDAY.COM

NEAL KUMAR KATYAL
HOGAN LOVELLS US LLP
555 THIRTEENTH ST., N.W.
WASHINGTON, DC 20004
NEAL.KATYAL@HOGANLOVELLS.COM

MONICA LYNN MILLER
AMERICAN HUMANIST ASSOCIATION
1821 JEFFERSON PLACE NW
WASHINGTON, DC 20036
MMILLER@AMERICANHUMANIST.ORG

LINDSAY SEE
SOLICITOR GENERAL
OFFICE OF THE WEST VIRGINIA ATTORNEY GENERAL
STATE CAPITOL COMPLEX
BUILDING 1, ROOM E-26
CHARLESTON, WEST VIRGINIA 25305
LINDSAY.S.SEE@WVAGO.GOV