

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No.:

AMERICAN ATHEISTS, INC.
and Lon Bevill,

Plaintiffs,

v.

CITY OF STARKE,
FLORIDA,

Defendant.

COMPLAINT

Plaintiffs, American Atheists, Inc. and Lon Bevill sue Defendant and declare:

JURISDICTION AND VENUE

1. This Court has Federal question jurisdiction of this case under 28 U.S.C. § 1331 and pendent jurisdiction to hear related state law claims.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
3. Declaratory and injunctive relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

PARTIES

4. Plaintiff American Atheists, Inc. is a non profit organization incorporated under the laws of _____ among whose primary purposes is to protect and defend the civil rights of nonbelievers. It appears as an organizational plaintiff to articulate and enforce its members' interests.
5. Lon Bevill is a resident of Bradford County, Florida.
6. The City of Starke is a municipality established by the laws of the State of Florida located within the geographical boundaries of Bradford County, Florida

Statement of Facts

7. The City of Starke owns operates and maintains a public water tower on city-owned property approximately 100 feet high on top of which sits an overt religious display in the form of a cross approximately 10 feet high
8. The cross is perhaps the single highest point in the City of Starke and it is easily visible to anyone traveling on U.S. Route 301 within a mile of the water tower
9. It is a matter of common knowledge that a cross is the universal symbol of Christianity.
10. This cross has no secular purpose whatsoever and constitutes a tacit endorsement of Christianity by the City of Starke in direct violation of the establishment clause of the U.S and Florida Constitutions.
11. The City of Starke has the power and authority to remove the cross but has failed and refused to do so despite a formal written request from the plaintiffs.
12. For many years now, the City has received sporadic complaints from persons traveling through the city but has routinely ignored them, despite actual knowledge that permitting a cross to remain on a city owned water tower is blatantly unconstitutional.
13. Bevill drives by the water tower on public roads almost every day. He is unable to avert his eyes without creating a public hazard. Every time he sees this cross, he feels alienated and demeaned by a sense that in the eyes of the community, his absence of religious belief renders him a second-class citizen.
14. Bevill considers himself to be a proud and patriotic American and should not be made to feel that his mere lack of adherence to the dominant faith of his community makes him or his family any less deserving of our constitution's protections for all Americans, religious or otherwise
15. American Atheists, Inc. has members who reside in the state of Florida as well as members who reside in and around Starke as well as Bradford County, including but not limited to Bevill.
16. American Atheists, Inc. is devoted to protecting the First amendment guarantee of the separation of church and state, including education, advocacy, and legal assistance.

17. Members of American Atheists, Inc. come into direct, and unwelcome contact with the cross whenever they drive within the visible radius of the water tower.
18. Members of American Atheists, Inc. believe the cross is an insult to their absence of religious beliefs and an assault on their right to be free from overt state-sanctioned religious proselytizing.
19. Members of American Atheists, Inc. as well as persons practicing religious faiths other than Christianity are bound to feel a sense of alienation as long as the City of Starke shows special deference to a single religious faith by the continuing prominent presence of the subject cross on city property.
20. Bevill and American Atheists, Inc. have engaged counsel in this action and are obliged to pay reasonable attorneys fees.
21. This complaint has been served on the Florida Department of insurance pursuant to FS 284 et seq.

COUNT I

VIOLATION OF FEDERAL CONSTITUTION

22. Plaintiffs hereby incorporate paragraphs 1 through 22 above.
23. This count is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of law, of rights secured by the United States Constitution.
24. The City of Starke's allowance, tolerance and maintenance of the subject cross on top of the city water tower violates the Establishment Clause of the First Amendment of the United States Constitution as incorporated by the Fourteenth Amendment.
25. As a result of the City's of Starke's failure and refusal to remove the cross, the plaintiffs have suffered legally cognizable injuries for which there is no adequate remedy at law.

COUNT II

VIOLATION OF FLORIDA CONSTITUTION

26. Plaintiffs hereby incorporate paragraphs 1 through 22 and paragraph 26 above.
27. Starke's placement of the cross, a religious symbol, on top of the city water tower violates the Article I of the Florida Constitution.

28. That as a result of the City of Starke's actions described above, the plaintiffs have suffered legally cognizable injuries.

DEMAND FOR RELIEF

WHEREFORE, the plaintiffs demand judgment against the City of Starke as follows:

1. Declare that the placement and retention of the cross by Starke on public property violates the United States Constitution.
2. Enter a permanent injunction against the City of Starke requiring the City to remove the cross from the water tower forthwith.
3. Award plaintiffs their costs, including reasonable attorney fees, pursuant to 42 U.S.C. § 1988.
4. Grant any additional relief to which the plaintiffs may be entitled.

Respectfully submitted,

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