

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

American Atheists, Inc., and Charles Ray Sparrow,

Plaintiffs,

v.

Case No: 1:15-CV-113

Levy County, Florida.

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, American Atheists, Inc. and Charles Ray Sparrow, bring this action and this complaint against the Defendant, Levy County, Florida, seeking to protect individual civil and Constitutional rights, including the right to be free from government intrusion into, entanglement with and endorsement of religious matters, and the right to equal protection of the laws, and states as follows:

NATURE OF THE CASE

1. This is a civil rights action to protect and defend the Constitution of the United States, the Florida Constitution, and the individual rights and liberties of citizens. These rights include the right to be free from government intrusion into and endorsement of matters of religion, and freedom of and from religion, and the right to equal protection of the laws. This action challenges the constitutionality of Levy County's placement of a massive monument displaying an abridgement of a portion of religious text taken from one of many versions of the Bible (commonly referred to as the Ten Commandments and hereinafter referred to as the "Display") in front of the Levy County Courthouse

(“Courthouse”) as a violation of the Establishment Clause of the First Amendment, made applicable to the States by the Fourteenth Amendment. The Display is over five (5) feet tall, and is reported to be made of approximately six (6) tons of granite or other stone material. The Display is inscribed with religious text across its face, and along its base is large lettering stating: “THE TEN COMMANDMENTS.” No other historic documents or icons are exhibited with the Display. Plaintiffs are demanding declaratory and injunctive relief and nominal damages under 42 U.S.C. § 1983 together with costs and attorney’s fees under 42 U.S.C. § 1988, together with such other and further relief as the court may deem just and equitable.

JURISDICTION

2. This action is brought pursuant to 28 U.S.C § 2202 and 42 U.S.C. § 1983, and the First and Fourteenth Amendments to the United States Constitution, and Article I, Section 3, of the Florida Constitution.

3. This Court has subject matter jurisdiction over the federal constitutional claims pursuant to §§ 1331 and 1343(a), and has supplemental jurisdiction over state constitutional claims under 28 U.S.C. §1367(a).

4. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiffs’ action for injunctive relief is authorized by the foregoing statutes and by Rule 65 of the Federal Rules of Civil Procedure.

5. Plaintiffs have satisfied all conditions precedent, if any, to filing this civil action.

VENUE

6. Venue is proper in this Court because “a substantial part of the events” at issue occurred within this district. 28 U.S.C. § 1391(b)(2).

PARTIES

7. The Plaintiff, American Atheists, Inc. (hereinafter “American Atheists”) is a New Jersey non-profit corporation with members, offices and/or meeting locations nationwide and in various Florida municipalities including but not limited to Levy County, Florida. American Atheists is a membership organization dedicated to advancing and preserving the complete separation of church and state, the constitutional protections found in the Bill of Rights, and in particular, the First Amendment to the United States Constitution and Article I of the Florida Constitution. American Atheists brings this action to assert the First Amendment rights of its members.

8. Plaintiff, Charles Ray Sparrow (hereinafter “Sparrow”), is an individual and resident of Levy County, State of Florida, and Sparrow is a member of American Atheists, Inc. Sparrow is also an organizer of the Williston Atheists group, which is an affiliate group of American Atheists, Inc.

9. The individual Plaintiffs and other members of American Atheists, Inc. and the Williston Atheists group, including but not limited to such persons residing in Levy County, and Williston Atheists members who reside in Levy County, have been harmed by unwelcome contact with the Display, resulting from the need to use county facilities available only at the Levy County Courthouse. Such members have standing to sue in their own right.

10. The Levy County Board of County Commissioners authorized the Display complained of herein. Defendant Levy County is subject to suit in its own name pursuant to Florida Statute § 125.15.

FACTUAL ALLEGATIONS

11. The Levy County Board of County Commissioners unveiled the Display through a religious ceremony including prayers and invocations, which it had officially approved to be prominently placed in the courtyard of the Levy County Courthouse.

12. The Levy County Courthouse also houses other county offices, such as the property appraiser, Building and Zoning, Supervisor of Elections, Sheriff, Tax Assessor, Clerk of the Court, and Board of County Commissioners.

13. The Display was placed in the courtyard of the Levy County Courthouse immediately beside a tall flagpole which generally flies the American flag.

14. The Display appears to be over five (5) feet tall and on information and belief is made of approximately six (6) tons of granite or other stone material. On the face of the Display is lettering constituting an abbreviated version of religious instruction and/or commands. The religious text is taken from a version of a religious text, various different versions and translations of which exist. The text is commonly referred to as “The Ten Commandments,” and at the base of the monument in large lettering the following words are inscribed: “THE TEN COMMANDMENTS.”

15. The Display is religious in nature, has a primary purpose of advancing religion, and is not part of any broader exhibit, historical or otherwise. It stands alone.

16. Plaintiffs have applied to have a monument placed at or near the location of the Ten Commandments monument, or at a place of similar prominence on the courthouse grounds.

17. Plaintiffs' applications have been denied.

CLAIMS FOR RELIEF

Declaratory Relief

18. Plaintiffs incorporate herein the preceding paragraphs of this Complaint, as if the same were fully set forth herein.

19. The principal or primary purpose of the Display is not secular, but rather is to advance a particular religion.

20. The Display constitutes a government endorsement of a particular religion.

21. The Display fosters an excessive entanglement between government and religion.

22. The Display constitutes an endorsement of religion.

23. The Display was erected by the Defendants acting, alone and/or in concert, under the cloak of government authority.

24. The Display deprives Plaintiffs of their rights, privileges, or immunities secured by the United States and Florida Constitutions and/or otherwise by law.

25. Plaintiffs seek a declaratory judgment that the Display violates the Establishment Clause of the First Amendment of the United States Constitution, made applicable to the States by the Fourteenth Amendment, pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

26. Plaintiffs alternatively seek a declaratory judgment that the Display and the denial of Plaintiff American Atheists, Inc. and the Williston Atheists group's application for an equivalent monument or display violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

Injunctive Relief

27. Plaintiff incorporates herein by reference the preceding paragraphs of the Complaint as if the same were fully set forth herein.

28. Plaintiffs seek an injunction requiring Defendant to remove the Display from the Levy County Courthouse, pursuant to 28 U.S.C. § 2202 and 42 U.S.C. § 1983.

29. Plaintiffs have no adequate remedy at law because legal relief cannot remedy the denial of its members' First and Fourteenth Amendment fundamental rights. Unless enjoined by the Court, Plaintiffs' Constitutional rights will continue to be violated by the Display on the Courthouse steps.

30. Defendant erected the Display at a specific, prominent place in or around the Levy County Courthouse, and said Display denies the Plaintiffs their Constitutional rights under the Establishment Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment.

31. Upon information and belief, Defendant has refused to remove the Display.

32. Defendant wrongfully denied the application of the Plaintiff American Atheists, Inc. and the Williston Atheists group to erect a monument.

33. Plaintiffs are entitled to injunctive relief requiring the Defendant to remove the Display.

34. Alternatively, Plaintiffs are entitled to mandatory injunctive relief requiring the Defendant to allow Plaintiffs to erect an equivalent monument or display in the vicinity of the Ten Commandments Display.

Damages

35. Plaintiffs incorporate herein by reference the preceding paragraphs of this Complaint as if the same were fully set forth herein.

36. Defendant has violated and continue to violate the Establishment Clause of the First Amendment to the United States Constitution, and the Florida Constitution, through its placement of the Display at the Levy County Courthouse.

37. Alternatively, Defendant has violated and continues to violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and the Florida Constitution, through its placement of the Display at the Levy County Courthouse and denial of equal treatment to the Plaintiffs.

38. Plaintiffs seek nominal damages against Defendant pursuant to 42 U.S.C § 1983.

39. Plaintiffs request all other remedies, damages and relief to which they are entitled under federal and state law, and the United States and Florida Constitutions.

Attorneys Fees and Costs

40. Plaintiffs incorporate herein by reference the preceding paragraphs of this Complaint as if the same were fully set forth herein.

41. Plaintiffs seek recovery of their reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

42. Plaintiffs have retained the undersigned attorney herein and have agreed to pay a reasonable fee for legal services herein.

43. Plaintiffs are entitled to an award of costs and attorneys fees so wrongfully sustained herein.

WHEREFORE, in light of the foregoing, the Plaintiffs respectfully demands judgment against the Defendant, including without limitation the following:

- A. A declaratory judgment declaring that the Display violates the United States Constitution, the Florida Constitution and is a violation of Plaintiffs' constitutional rights pursuant to 42 U.S.C. §1983;
- B. An injunction enjoining the Defendant, its successors, assigns, those persons in active concert or participation with Defendant, and all other persons within the scope of Fed. R. Civ. P. 65, to remove the Display of the Ten Commandments from the Levy County Courthouse;
- C. Alternatively, a mandatory injunction requiring the Defendant to allow the Plaintiffs to erect an equivalent monument.
- D. A judgment in Plaintiffs' favor for nominal damages against Defendants;
- E. The costs of this action, including but not limited to all out of pocket expenses, court costs and fees, and reasonable attorney's fees pursuant to 42 U.S.C § 1988 and otherwise; and,
- F. Any other and further relief as the Court may deem just, proper and equitable in the premises.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues triable by a jury.

Dated: This 1ST day of June, 2015.

Signed,

/s/ Eric O. Husby

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