

# Supreme Court concurs with The American Legion's stand on public monuments

WASHINGTON, DC (Feb. 26, 2009) – A ruling announced this week by the U.S. Supreme Court gives weight to an argument by The American Legion against the placing of public monuments that could threaten the sanctity of veterans memorials. Justices ruled unanimously that an obscure religious group cannot use a “free speech” argument to force a small Utah city to erect a granite marker in a local park that is home to a long-standing monument to the Ten Commandments.

“At first glance, this ruling may seem unrelated to us, but it actually sets a precedent that is very important to veterans groups,” said David K. Rehbein, National Commander of The American Legion. “The Justices have said, in effect, that a local government can choose what donated public displays it cares to exhibit on public land – and what displays it can reject. This reduces the chance that a monument to an enemy or dissenting group, for instance, could be erected in the same space as a monument to our fallen warriors.”

The ruling stems from a case precipitated by a small Salt Lake City, Utah-based religious group called Summum. Summum went to federal court after its effort to erect a marker in Pleasant Grove City, Utah was rejected by the city. Summum maintained that the city violated its right to free speech by refusing the donated monument. The Tenth Circuit Court of Appeals in Denver agreed with the religious group, but the Supreme Court ruling reverses that decision.

The American Legion played an active role in the oral argument phase of the case. Last year, Liberty Legal Institute in Plano, Texas filed an amicus brief on behalf of The Legion and several colleague veterans and military service organizations. The brief's argument summary stated:

*“The precedent established by the Tenth Circuit lays the foundation for the destruction of all donated veterans memorials nationwide and chills the erection of any future memorials. From the United States Marine Corps War Memorial in Arlington, VA, to the Vietnam Veterans War Memorial on The Mall in Washington, DC, to the myriad Spirit of the American Doughboy WWI memorials like that in Ft. Smith, AR, this precedent will require all governments, from the smallest municipality to the Congress itself, to make an impossible decision: either fail to honor our veterans by any donated monument whatsoever, tear down those that currently exist, or allow a monument honoring our veterans and then, upon donation, erect on the same hallowed ground one that dishonors them.”*

In his favorable Supreme Court opinion, Justice Samuel Alito said that while efforts to suppress actual *speech* in public parks would ordinarily violate the First Amendment, erection of donated physical entities such as markers and monuments is a different matter. Justice Alito said "the display of a permanent monument in a public park" defines, in part, a community's identity and, so, "cities and other jurisdictions take some care in accepting donated monuments."

Commander Rehbein notes that the Supreme Court has also agreed to hear a case later this year involving the suppression of a war memorial in the Mojave Desert. The Ninth Circuit Court of Appeals in San Francisco has ruled that the memorial to World War I veterans is unconstitutional because it is the shape of a cross, which might connote religious symbolism. A proposal to transfer the land upon which the now-cloaked monument rests to the VFW, which erected the cross in 1934, was also ruled unconstitutional by the court. “Obviously, we favor the full and free display of that monument,” said the Commander. “The Supreme Court ruling gives us hope for a good outcome in that matter, too,”