

# FREEDOM FROM RELIGION *foundation*

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December 20, 2016

SENT VIA MAIL & EMAIL TO:

[mayorcates@butnenc.org](mailto:mayorcates@butnenc.org)

Mayor Vicky H. Cates  
Town of Butner  
PO Box 270  
Butner, NC 27509

Re: Unconstitutional Nativity Scene

Dear Mayor Cates:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an unconstitutional nativity scene sponsored by the Town of Butner. We were contacted by a concerned resident. FFRF is a national nonprofit organization with more than 25,000 members across the country, including more than 500 members in North Carolina and a local chapter, the Triangle Freethought Society. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the Town of Butner placed a nativity scene in Gazebo Park. This is a large display featuring figurines and lights which illuminate the display at night. Please see the enclosed photo. We understand that the nativity is prominently displayed across from the Butner Town Hall.

It is unlawful for the Town to maintain, erect, or host a holiday display that consists primarily of a nativity scene, thus singling out, showing preference for, and endorsing one religion. The Supreme Court has ruled it is impermissible to place a nativity scene as the focus of a display on government property. *See Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1984).

In *Allegheny*, the Supreme Court held that a county government's crèche displayed in the county courthouse was an unconstitutional endorsement of religion. The Court stated,

*Lynch v. Donnelly* confirms, and in no way repudiates, the longstanding constitutional principle that government may not engage in a practice that has the effect of promoting or endorsing religious beliefs. The display of the crèche in the county courthouse has this unconstitutional effect.

492 U.S. at 621.

The Court further determined that the placement of the crèche on the Grand Staircase of the county courthouse contributed to its illegality because “no viewer could reasonably think it occupies this location without support and approval of the government.” *Id.* at 599-600. Moreover, the Court found that the nativity scene “sen[t] an unmistakable message that [the county] supports and promotes the Christian praise to God that is the crèche’s religious message.” *Id.* at 600. This is similar to the Town’s placement of a nativity scene in a public park across the street from the Town Hall.

It is irrefutable that the crèche is a religious, Christian symbol. *See Lynch*, 465 U.S. at 711 (Brennan, J., dissenting) (stating that the crèche is a “re-creation of an event that lies at the heart of the Christian faith”). Displaying an inherently Christian message unmistakably sends the message that the Town endorses the religious beliefs embodied in the display. When the Town displays this manger scene, which depicts the legendary birth of Jesus Christ, it signals the government’s approval the Christianity. This excludes the nearly 30% of Americans who are not Christian, including the 23% who are nonreligious.<sup>1</sup> Putting up a nativity scene sends the exclusionary message to these nonbelievers and non-Christians that they are outsiders in their community.

There are ample private and church grounds where religious displays may be freely placed. Once the government enters into the religion business, conferring endorsement and preference for one religion over others, it strikes a blow at religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship. We request a response in writing about the steps you are taking to remedy this violation of the First Amendment.

Sincerely,



Patrick Elliott  
Staff Attorney

Enclosure

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<sup>1</sup> *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).

