

Governor Roy Cooper
Secretary Susi H. Hamilton
Historical Commission Chair David Ruffin

President Phil Berger and Speaker Tim Moore
Democratic Leaders Dan Blue and Darren Jackson

Re: Statewide Group of Attorneys Calling for Immediate Removal of Confederate Monuments

June 17, 2020

Dear North Carolina State Government Officials:

We are members of the North Carolina bar or professors at in-state law schools with, collectively, substantial experience in government, the private sector, and legal academia.

We write to convey our view that Confederate monuments in important civic spaces in North Carolina, including at the State Capitol, offend guarantees in our state and federal Constitutions. These displays are inextricably tied to secession, slavery, and white supremacy. We urge their immediate removal.

As UNC Chapel Hill's own website acknowledged for years, when seeing a monument such as "Silent Sam" exalting those who died for the South, "[m]any view it as a glorification of the Confederacy and thus a tacit defense of slavery." "Silent Sam" is gone but a 75-foot-tall statue topped with an armed Confederate soldier still stands at the State Capitol in the heart of downtown Raleigh. Its presence in that location offends the [North Carolina Constitution](#).

Central to our state Constitution are the declarations that "all persons are created equal" (Article I, Section 1), that "[s]lavery is forever prohibited" (Art. I, Sec. 17), and that "[n]o person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race" (Art I, Sec. 19). These guiding principles simply cannot be squared with the maintenance of Confederate monuments at prominent government sites. And the statues run counter to other constitutional provisions. As has been [reported](#), a keynote speaker at the State Capitol monument dedication "spent a good deal of his public address defending the right of the states to secede from the Union." Yet our Constitution rejects any such right of disunion (Art. I, Sec. 4). Indeed, "no law or ordinance of the State in contravention or subversion" of "the Constitution and government of the United States...can have any binding force" (Art. I, Sec. 5).

Prominent, government-maintained Confederate monuments are also at fundamental odds with the federal Constitution. As the U.S. Supreme Court unanimously held in *Pleasant Grove City v. Sumnum*, public monuments are examples of government speech. And as the Court explained in *Walker v. Tex. Div., Sons of Confederate Veterans*, "a government's ability to express itself" is not without restriction. "Constitutional and statutory provisions ... may limit government speech." The government-sanctioned expression at issue here is an affront to the commitment to racial equality embodied in the post-Civil War amendments. In particular, the Fourteenth Amendment forbids any state to deny "to any person...the equal protection of the laws." Racist government speech in the form of State-sponsored Confederate monuments is inconsistent with North Carolina's obligations under the Equal Protection Clause.

Some argue that taking down Confederate memorials is prohibited by the 2015 “monuments law”. That law should be repealed and we urge the General Assembly to do so. But whether the legislature acts or not, the State has an overriding obligation to comply with the state and federal Constitutions (plus federal anti-discrimination laws such as Title VII of the Civil Rights Act of 1964).

If there is a question about the permanent removal of these monuments, we urge at a minimum their immediate relocation to storage. Should any group sue for their return, we are confident that such an effort will face broad and successful legal opposition.

Confederate monuments can and must be removed immediately. Their presence in key civic spaces undermines state and national unity, denies Black citizens equal protection, and offends foundational and supreme legal rules. This is not who we are. This is not how North Carolina should be seen by America and the world. Put simply: now is the time for action. The Constitutions of North Carolina and our United States demand it.

Respectfully,

Signatories submit this letter in their individual capacities.

Nana A. Asante-Smith	Marie-Amélie George	Allison Riggs
Lawrence G. Baxter	Deborah R. Gerhardt	Katherine E. Ross
Alyse Bertenthal	Michael J. Gerhardt	Richard Schneider
Donald H. Beskind	Gagan Gupta	Adam C. Setzer
Emilia Beskind	Noël Harlow	Theodore M. Shaw
Joseph Blocher	David A. Hoffman	Gary K. Shipman
Celeste H.G. Boyd	Walter C. Holton, Jr.	John P. Stanley
Bobbi Jo Boyd	Sarah Fulton Hutchins	Margaret Taylor
John Burns	Irving L. Joyner	R. Bruce Thompson, II
Mark T. Calloway	Thomas A. Kelley, III	Anne M. Tompkins
Kami Chavis	Elizabeth F. Kuniholm	Kenneth Townsend
James E. Coleman, Jr.	Marin K. Levy	Kathy Twiddy
W. Thompson Comerford, Jr.	Sarah Ludington	Steven Virgil
Catharine W. Cummer	Lisa Lukasik	Thomas G. Walker
Timothy Davis	Roger Manus	Sara Willingham
April G. Dawson	William P. Marshall	
Hampton Dellinger	Charles C. Meeker	
Walter Dellinger	Jaye Meyer	
T. Greg Doucette	David L. Neal	
Maxine Eichner	Alan Palmiter	
Robert M. (Hoppy) Elliot	Wilson Parker	
Sara Emley	Stuart Paynter	
Melissa Essary	Charles Raynal	
James E. Ferguson, II	Suzanne Reynolds	
Shawn E. Fields	Neil A. Riemann	
Charles Francis		