

Wisconsin Institute for Law and Liberty: Asks Supreme Court to rule war memorial cross Constitutional

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WISCONSIN INSTITUTE
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The News: WILL filed an [amicus brief](#) in the U.S. Supreme Court in a pair of consolidated cases, *The American Legion v. American Humanist Association* and *Maryland-National Capital Park and Planning Commission v. American Humanist Association*. The amicus asks the U.S. Supreme Court to overturn a Fourth Circuit decision and decide that a war memorial that features a cross does not violate the Establishment Clause of the U.S. Constitution.

Get Up To Speed: The case involves a memorial to World War I veterans located in the median of a highway intersection in Bladensburg, Maryland. The memorial is in the shape of a Latin cross.

- A group of non-Christian residents and the American Humanist Association sued the Maryland-National Capital Park and Planning Commission and the Legion intervened. American Humanist & Co. claim the existence of the cross and its continued maintenance, which is on public land, violates the Establishment Clause.
- The American Legion & Co. argue that the cross memorial has a secular purpose (memorializing the war dead) and does not endorse religion because crosses are often used to symbolize death and those who have died in war.
- The district court sided with the American Legion, but the Fourth Circuit reversed and concluded the cross has the primary effect of endorsing religion.
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The WILL Perspective: WILL attorneys Rick Esenberg and Anthony LoCoco encourage the Court to consider two things when deciding this case:

- The Establishment Clause should not apply to the states as it does not protect an individual right. It is a prohibition on the federal government only, not state governments.
- The Court should re-examine and clarify its Establishment Clause doctrine. It is impossible to protect citizens from any form of government endorsement or encouragement of religion or particular religions. Instead, Establishment Clause jurisprudence should focus on the distinguishing marks of coercive practices, and government actions that more significantly intrude on religious decision-making.

Learn More:

• [WILL's Amicus Brief in *The American Legion v. American Humanist Association* and *Maryland-National Capital Park and Planning Commission v. American Humanist Association*](#), December 20, 2018