

Calif. war memorial cross ruled unconstitutional

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January 5, 2011

WASHINGTON (RNS) A federal appeals court ruled Tuesday (Jan. 4) a veterans' memorial featuring a 43-foot cross on California's Mount Soledad is unconstitutional.

"The use of such a distinctively Christian symbol to honor all veterans sends a strong message of endorsement and exclusion," wrote Judge M. Margaret McKeown for the 9th U.S. Circuit Court of Appeals.

"It suggests that the government is so connected to a particular religion that it treats that religion's symbolism as its own, as universal."

The decision that the memorial in La Jolla, Calif., violates the Establishment Clause reverses a lower court decision but does not determine what will happen to the cross that has been the dominant feature of the monument since it was erected in 1913.

"This result does not mean that the memorial could not be modified to pass constitutional muster nor does it mean that no cross can be part of this veterans' memorial," McKeown concluded.

The case has wound through the courts for two decades.

"We are grateful to the Ninth Circuit for its recognition that the Establishment Clause of the First Amendment affirms the contribution of diversity in American democracy without pre-eminence to any single religion," said Robert M. Zweiman, past national commander of the Jewish War Veterans of the USA, which worked with the American Civil Liberties Union to challenge the memorial.

Legal groups that supported the memorial, including Liberty Institute and the American Center for Law and Justice, called the decision a "slap in the face" to military veterans.

A second case involving a controversial monument in Southern California also remains in the courts.

Last April, the U.S. Supreme Court permitted a war memorial cross to remain at the Mojave National Preserve and told a lower court to further consider a congressionally approved transfer of the cross to private land.