



MILITARY RELIGIOUS FREEDOM
f o u n d a t i o n

Tuesday, January 17, 2017

Brigadier General William M. Journey
Commanding General, Western Recruiting Region
Marine Corps Recruit Depot San Diego
1600 Henderson Ave.
San Diego, CA 92140

Transmitted via email and UPS.

Dear Brigadier General William Journey:

It has come to the attention of the Military Religious Freedom Foundation (“MRFF”) that a display of the birth of Jesus (also known as a crèche) is placed on the lawn behind the Marine Corps Recruit Depot (“MCRD”) chapel each year during the month of December. While such displays are commonly erected in front of homes and various businesses to celebrate the holiday season, it clearly promotes the Christian faith over other religions – many of which celebrate holidays other than Christmas during the same time of year. Therefore, the presence of a crèche on government property is an unconstitutional endorsement of one religion over others and/or religion over non-religion.

An act or policy of a government entity violates the Establishment Clause if any one of the following is shown: (1) its purpose is not secular; (2) its principal/primary effect either advances or inhibits religion; or (3) it fosters an excessive entanglement with religion. *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

Although the crèche is not displayed throughout the year, even a temporary annual display has no secular purpose since it is plainly Christian in nature. Additionally, the primary effect is to advance religion – specifically, Christianity. Finally, its presence at the MCRD, rather than an independently owned business, fosters an excessive entanglement with religion. Thus, all three factors of the *Lemon* test are met and the crèche display constitutes a violation of the Establishment Clause of the First Amendment. Please note that the *Lemon* test does not require the intent to endorse any religion. Accordingly, even if the promotion of Christianity is an unintentional result of the display, the display is still unconstitutional.

The crèche also violates Article 6 of the Constitution, which states, “...no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” Marine Corps recruits, permanent party Marines, retirees, and civilians on MCRD while the crèche is displayed are given the clear message that the practice of Christianity is valued by the Marine Corps, while belief in other faiths (or no faith at all) is not.

MRFF has been approached by Marines, retirees, and civilians of the Jewish faith regarding the crèche and its endorsement of Christianity. On behalf of these clients, MRFF demands that in the future, the crèche display be accompanied by the display of a Menorah or other symbol representing the Jewish celebration of Chanukah. We further demand that such a display be similar in size and scope to the crèche honoring the Christian holiday of Christmas.

We expect to receive similar requests from service members practicing other religions, as well. As we do, we will demand similar displays honoring the holidays celebrated by each of these religious faiths. If a holiday display honoring a Christian holiday is permitted, similar displays honoring other religious faiths must absolutely also be permitted.

Although the Menorah will not be displayed until the end of 2017, we must receive a timely response from you regarding this issue. We will need time to negotiate the details of the display and allow for its purchase or construction. If you refuse our demand or if we do not receive a response by January 31, 2017, we will be forced to take appropriate action on behalf of our clients.

We look forward to your response.

Respectfully,



Tobanna Barker
MRFF Legal Affairs Coordinator
Military Religious Freedom Foundation