

SPOTLIGHT: THE CROSS AND THE COURT

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➔ In October the U.S. Supreme Court heard oral arguments in *Salazar v. Buono*, a challenge to a 74-year-old war memorial cross in a remote part of California's 1.6-million-acre Mojave National Preserve. But those hoping the case would clarify the court's messy view of the First Amendment's Establishment Clause were disappointed; from most of the justices' questions, it's almost certain that the ruling will be on narrow issues unique to the case. Meanwhile, similar monument cases wait in the wings.

ORAL ARGUMENT

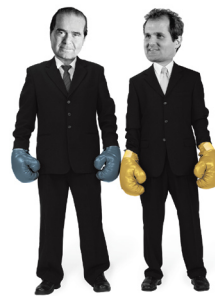
An excerpt from the October 7 hearing.

PETER J. ELIASBERG, lawyer for Frank Buono A cross is the predominant symbol of Christianity, and it signifies that Jesus is the Son of God and died to redeem mankind . . .

JUSTICE ANTONIN SCALIA It's erected as a war memorial. . . . The cross is the most common symbol of the resting place of the dead. What would you have them erect? Some conglomerate of a cross, a Star of David, and you know, a Muslim half-moon and star?

ELIASBERG The cross is the most common symbol of the resting place of Christians. . . . There is never a cross on a tombstone of a Jew.

SCALIA I don't think you can leap from that to the conclusion that the only war dead that the cross honors are the Christian war dead. I think that's an outrageous conclusion.



KEY SUPREME COURT RULINGS

1980 | Said a crèche on city property could have secular purposes.

1984 | Said a Ku Klux Klan cross in the Ohio statehouse plaza was private free speech.

1989 | Ruled against a framed Ten Commandments display in a Kentucky courthouse, but okayed a Commandments monument at the Texas Capitol.

1980 | Voided a Kentucky law requiring schools to post the Ten Commandments.

1989 | Found a solitary crèche in a courthouse unconstitutional, but okayed an outdoor menorah and Christmas tree.

2005 | Decided a Utah Commandments monument was government speech that didn't create a public forum for other monuments.

2009

WHEN COURTS TAKE UP THE CROSS

In addition to myriad lawsuits over Ten Commandments monuments, Nativity scenes, and other displays, courts around the country are hearing lawsuits over crosses on government land. A few of the cases in 2009:



In a case very similar to the one before the Supreme Court, a 55-year-old, 29-foot war memorial cross on Mount Soledad in La Jolla, California, has been the subject of lawsuits since 1989. The case is now before the Ninth Circuit Court of Appeals.



The Tenth Circuit Court of Appeals is due to rule on the constitutionality of the Utah Highway Patrol Association's memorial crosses on public property in *American Atheists v. Duncan*.



In March, atheist activist Patrick Greene filed a lawsuit against a cross in a Porterville, California, city park "Dedicated as a Spiritual Inspiration to All" by the local Rotary Club in 1965.



The American Civil Liberties Union said it is filing a lawsuit over the Easter-season cross on the city-owned William Penn Memorial Fire Tower in Reading, Pennsylvania.

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