



Written by [Dave Bohon](#) on August 20, 2012

## Appeals Court Rules for Ten Commandments in Dixie County, Florida, Case

A Ten Commandments monument on display at the courthouse in Dixie County, Florida, may stay in place for now, the 11th Circuit Court of Appeals ruled August 15 as it sent an ACLU lawsuit against the display back to a lower court for reconsideration.

As previously reported by [The New American](#), in July 2011 a U.S. district court ordered the removal of the Ten Commandments display, placed at the courthouse in 2006 by resident Joe Anderson using his own money, after the ACLU filed a lawsuit on behalf of a tourist who saw the display and was offended at its religious intent. In addition to the Decalogue, the display includes the simple admonition, "Love God and keep his commandments." The plaintiff in the case, referred to as "John Doe," claimed that the monument was a major factor in his decision against purchasing property in the county.

In vacating the lower court decision, the three-judge panel of the 11th Circuit ruled that the plaintiff lacked legal standing to sue the county. Matt Staver of [Liberty Counsel](#), the conservative legal advocacy group representing the county in the case, applauded the decision, predicting that the case would ultimately be dismissed, allowing the county to keep the display. "You can't just swing through town and file a lawsuit over a Ten Commandments monument," Staver said, adding that "the people of Dixie are supportive of this monument. And they are much opposed to the ACLU."

Staver argued that Dixie County "should be applauded, not sued, for fostering open and robust speech in a public forum. Rather than take advantage of the forum, the ACLU prefers to censor speech with which it disagrees." Staver pointed out that the Ten Commandments are a universally recognized symbol of the law upon which America was founded, and can be found at courthouses and public squares across America, as well as in the nation's very judicial center. "There are more than 50 depictions of the Ten Commandments at the U.S. Supreme Court, and there have been thousands of displays throughout the country for many years," he said.

In explaining his motive in paying to erect the monument, Joe Anderson said that "the Ten Commandments are a very important part of this country's founding history and are important to the future of this country."

At issue in the case is whether the plaintiff, who has never lived or owned property in Dixie County, has standing to file suit over the monument in the county. According to Liberty Counsel, "Mr. Doe" originally testified in the case that there were several things about the county that he found objectionable, including a cartoon taped to a county employee's desk, a website in the county for an





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entity called “Patriot Properties,” as well as the Ten Commandments monument.

“After the county moved for summary judgment on the basis of a lack of standing,” noted Liberty Counsel, “Mr. Doe filed an affidavit in which he claimed that it was only the monument that offended him.”

In its ruling the appeals court found the two versions of the plaintiff’s objections over the county troubling. “Doe’s affidavit — which is suspect, given that it seems designed to strengthen Doe’s standing claim — is inconsistent with his deposition,” the court wrote, concluding that it was improper for the lower court to decide against the county based on Doe’s changing testimony.

In sending the case back to the lower court for resolution, the appeals court ruled that because of the the plaintiff’s conflicting testimony, “it is uncertain whether foregoing his real estate search constitutes an ‘injury’ of the type that satisfies standing requirements and whether the monument was the real cause of that alleged ‘injury.’ The existence of alternative or additional reasons for Doe’s abandonment of his search for property in the County could render Doe’s injury speculative — more ‘hypothetical’ than ‘actual.’”

Added the appeals court: “Because this conflicting evidence must be resolved in order to determine whether Doe has standing, we vacate the district court’s grant of summary judgment on the merits and remand to the district court to hold an evidentiary hearing and determine what testimony to credit.” While all three appeals court judges agreed to set aside the ruling, only two ruled to send it back to the lower court. The third, Judge James Larry Edmondson, favored dismissing the case entirely. “The record (including Doe’s deposition) cannot assure the federal courts that ... Doe would seriously even consider buying property in the County ... if a federal court required the monument to be removed,” wrote Edmondson, “overriding the elected county officers’ own decisions to allow the monument.”

Howard Simon, executive director of the ACLU of Florida, responded to his group’s defeat, writing in an e-mail that “religious freedom is alive and well in this country specifically because government can’t tell us what to believe and cannot favor one religion over another. We look forward to the opportunity to demonstrate that the ACLU has standing to challenge the county’s unconstitutional placement of the monument, and once our standing to do so has been established, we look forward to seeing religious liberty in Dixie County protected by having the monument removed.”

Liberty Counsel’s Matt Staver responded by saying that the “ACLU has a habit of rolling into town and suing over the slightest claimed offense. The appeals court quite properly called their hand in this case and rightly questioned whether Mr. Doe has suffered any legitimate injury at all.”

Following the ruling, Liberty Counsel attorney Horatio Mihet declared,

The citizens of Dixie County won today. To them and to people across America, the Ten Commandments have become a symbol of the rule of law, not an establishment of religion. The monument reflects the essence and foundation of American law.

*Photo of Ten Commandments monument outside courthouse in Dixie County, Florida: AP Images*



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