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AT BALTIMORE
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

Amended Complaint

BY

DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Jeffrey M. Davis,
4079 Dry Run Road
Swanton, Maryland 21561

Plaintiff,

Civil No.: 16CV689

vs.

Allegany County Commissioners:

Jacob C. Shade
Creade V. Brodie, Jr.
William R. Valentine
Allegany County Office Building
107 Kelly Rd.
Cumberland, Maryland 21502

Defendants.

COMPLAINT

Plaintiff, for his complaint and cause of action against the

Defendants, states and alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil action for declaratory relief and prospective injunctive relief to redress and prevent violation of civil rights protected by the Constitution of the United States. Plaintiff seeks declaratory relief as to the unconstitutionality of

Defendants' conduct. Plaintiff seeks injunctive relief prohibiting Defendants from continuing their misconduct and from engaging in similar conduct in the future. All of the acts complained of were committed under color of law within the meaning of 42 U.S.C. Section 1983. Based on the federal claims herein, Plaintiff seeks compensatory damages as determined by the court, or alternately, nominal damages of one dollar (\$1.00). Plaintiff seeks court costs and punitive damages pursuant to 42 U.S.C. Sections 1983 and 1988.

JURISDICTION & VENUE

2. Jurisdiction is based on 28 U.S.C. Section 1343 and 42 U.S.C. Section 1983 for claims arising under the United States Constitution. Declaratory relief is authorized by 28 U.S.C. Sections 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by the United States Code and Rule 65 of the Federal Rules of Civil Procedure.

3. All of the conduct complained of occurred, is occurring, or will occur in the District of Maryland. The named individual Defendants to this action reside in the District of Maryland.

4. This action seeks to redress the deprivation of rights secured by the United States Constitution.

PARTIES

5. Plaintiff Jeffrey M. Davis is an adult citizen and resident of Maryland. He is offended by the placement of a Ten Commandments monument on the courthouse lawn of the Allegany County Courthouse, located on Washington Street, Cumberland, MD. He is a municipal taxpayer, owning property in Allegany County. He is in Cumberland as a result of a variety of activities: visiting the public library directly across from the monument, attending performances at local theaters, viewing exhibits at the Allegany County Arts building, visiting a friend who lives on the same street as the courthouse, and doing chores at a nearby rental house. As a result, he has regular, direct contact with the Ten Commandments monument each time he travels on Washington Street. Plaintiff believes that the monument represents only one particular religious point of view and therefore sends a message of exclusion to those who do not adhere to that particular religion (Christianity), in violation of the U.S. Constitution. Plaintiff does not want to have

exposure to the monument on government property in the future.

6. Defendants Jacob C. Shade, Creade V. Brodie, Jr. and William R. Valentine are all duly elected and serving Commissioners of Allegany County, Maryland. Allegany County is a governmental entity and owns certain real property at issue in this action, including the District Court courthouse lawn. The Commissioners are vested with the authority to manage and control the finances of all property, real and personal, belonging to Allegany County. As the governing body of Allegany County, the Commissioners have the authority to order the removal of monuments from land belonging to the County. They are sued in their official capacity as well individual capacity.

FACTS

7. The Ten Commandments monument sits on public property, on the lawn of the Allegany County Courthouse in Cumberland, Maryland (Exhibits 1,2,3).
8. The Fraternal Order of Eagles donated the monument to the County in 1957. The FOE has had nothing to do with the monument since its donation.
9. Plaintiff states he has personally experienced that it takes a tremendous amount

of fortitude to go against the grain of religious fervor in a community and to withstand the subsequent public condemnation:

“The ACLU locates a ‘village idiot’ such as a Jeff Davis and files a lawsuit on his behalf asking the court to stop the practice because of the Establishment Clause of the First Amendment.”¹

“If Jeff Davis and his gang want to put up a monument, put it on his own property.... The Taliban destroyed other symbols of religion by blasting them into pieces. This is no different.”²

“I do not fear or hate those who deny God and the Salvation of Jesus Christ. I pity them....Should the secular humanist succeed in moving our government away from Him, the U.S. will move from One Nation Under God, to a footnote in the history of man until the day when Christ returns.”³

10. On August 23, 2004, Plaintiff asked the County Commissioners in office at that time to remove the monument, on the basis that its presence on public property amounted to an endorsement of religion and thus violated the Establishment Clause of the First Amendment to the U.S. Constitution.

11. After Plaintiff contacted the Commissioners a third time on September 23, 2004, the monument was moved to private property, on October 11, 2004.

12. Immediately after the monument’s removal, on October 12, 2004, interviews with protesters at the courthouse and subsequent comments in the newspaper’s letters-to-the editor showed that a large majority of local citizens approved of the

¹ Bob Buck, “Commissioners cheered for defending monument,” Cumberland Times-News, Letters to the editor.

² Kenneth Wilmot, “If he wants a monument, let him put it on his own property,” Cumberland Times-News, Letter to the Editor, Wednesday, May 20, 2009.

³ Gary Hankins, “Issue reflects conflict between atheists, Christians,” Cumberland Times-News, Letter to the Editor.

county government's religious endorsement of Christianity. All of the public sentiment was based strictly on Christian religious beliefs, to the exclusion of anything secular:

"I got a little red-hot," Sheetz said. "People around here are just good Christians, and they're not going to have the Ten Commandments taken away from them."⁴

"These are the orders from God himself," said Taylor...."If they're taken away, it's a form, I would say, of saying 'No' to God. It's a way of saying we won't honor these Ten Commandments."⁵

"The first Commandment, awesome in its power, charges us to have no other God but God, the omnipotent, the Creator of all humanity....Truly, mankind has neglected to observe the laws of God and it perishes under the heavy yoke of manmade law."⁶

"The exchange of correspondence relating to the display of the Ten Commandments in our blest town reflects a long continuing friction between atheists and Christians at every level. Those who object to the display of the Ten Commandments that people of faith know in our hearts to be the word of God cling to a collection of arguments rooted in their rights under the U.S. Constitution...."⁷

13. The Commissioners moved the monument back to its original site on October 14, 2004.

14. In 2005, Plaintiff organized a non-profit, named Citizens for a Secular Government, whose purpose was to erect a monument on the Allegany County courthouse lawn, honoring the U.S. Constitution. Part of the inscription included

⁴ Frederick Kundle, "National Rift Resonates in Md. Display," Washington Post, January 2, 2005; <http://www.washingtonpost.com/wp-dyn/articles/A41580-2005Jan1.html>

⁵ Ibid.

⁶ Anna Maria Feldstein, "Commandments tablets actually remain invisible," Cumberland Times-News, Letter to the Editor, December 29, 2007.

⁷ Gary Hankins, "Issue reflects conflict between atheists, Christians," Cumberland Times-News, Letter to the Editor.

the sentence, "As the philosophical and legal backbone of our country, the Constitution is a social contract forged as a secular document that was intended to unite our States and to protect the liberties of its entire people."

15. In 2004, the only other object on the courthouse lawn was a World War I cannon, a display that ended up being treated differently than the Ten Commandments monument by not being given protection from permanent removal. In 2005, a statue of George Washington replaced it.

16. In 2009, the same Commissioners agreed to placement of a monument honoring the U. S. Constitution, on condition that the word secular was excluded from the text ("...the Constitution is a social contract forged as a *secular* document..."), claiming no desire to override the recommendation of the previously appointed Allegany County U.S. Constitution monument committee. Rationale by members of the committee voting for censorship of the word secular was based on defining secular as atheist and presuming that the Christian Founding-Fathers would not want something associated with atheism to be on a courthouse lawn.

17. Three months later, after public comments defining secular as atheist

("The Historic Cemetery committee ...have a great issue with 'secular' term, meaning non-religious or atheist, being inscribed..."),⁸

Commissioners passed a policy forbidding monuments on the courthouse lawn from including the name of the donor ("Presented by Citizens for a Secular Government"),

⁸ Minutes from County Commissioner's meeting December 30, 2009.

overriding the Constitution monument committee and once again excluding the word secular from public view and proximity to the Ten Commandments.

18. Soon after, Commissioners indicated that Allegany County and the Maryland Historic Trust had signed an easement in 1999, barring more than two objects from being on the lawn at the same time.

19. Commissioners in the past have demonstrated that objects on the lawn are not part of any cohesive whole. They removed the Ten Commandments briefly and removed the World War I cannon permanently.

20. The Ten Commandments monument has never been considered to be a part of the display of the George Washington statue, but has been recognized by the general public as a religious symbol promoting Christianity.

“All the laws in the courthouse are based on the Ten Commandments.”

“Jesus is being moved right out. God’s being moved out.”

“I see a moral decay in our culture, and I see we’re becoming more secular. We’re becoming like Europe. Their belief is no belief.”⁹

“The Ten Commandments are a set of rules handed down by God. Our entire judicial system is patterned after these strict laws. They provide clear and concise rules in which all people should live by.”¹⁰

21. There is nothing remotely secular about the text on the Ten Commandments monument, as it is taken from a religious document.

22. There has never been any overall secular purpose given by the Commissioners in

⁹ Frederick Kunkle, “National Rift Resonates in Md. Display,” Washington Post, January 2, 2005; <http://www.washingtonpost.com/wp-dyn/articles/A41580-2005Jan1.html>

¹⁰ Jeff Alderton, “Eagles kept out of loop on monument move,” Cumberland Times-News.

justifying the Ten Commandments' placement on the lawn.

CAUSES OF ACTION

23. All preceding allegations are incorporated herein by reference.

24. Defendants' ownership, maintenance, and prominent display of the Ten Commandments monument on public property on the courthouse lawn amounts to the endorsement and advancement of religion (specifically an endorsement of and affiliation with Christianity) in violation the Establishment Clause of the First Amendment to the U.S. Constitution.

25. The religious aspect of the Ten Commandments clearly has no secular component; the physical pairing of the Ten Commandments with the courthouse and the refusal to allow representations of other religions and beliefs gives a clear message of endorsement of a particular religion and favors one religion over others.

26. To any reasonable observer of the context and history of the controversy surrounding the Ten Commandments monument, the Commissioners have endorsed a strictly religious purpose by exhibiting the Commandments as a religious commemoration, reinforced by not allowing the word secular to appear on the courthouse lawn. Their actions have been entirely motivated by a purpose to advance religion in a comprehensive, discriminating manner.

27. Defendants' ownership, maintenance and prominent display of the Ten

Commandments monument on public property lack a secular purpose in violation of the Establishment Clause of the First Amendment.

28. The Defendants' ownership, maintenance and prominent display on public property of the Ten Commandments monument fosters excessive governmental entanglement with religion in violation of the Establishment Clause of the First Amendment.

29. Plaintiff attended a public meeting of the current County Commissioners on February 25, 2016, requesting that they remove the Ten Commandments monument. A letter was presented to them, outlining the chain of events of this controversy. Two of the three Commissioners were in attendance and stated that they did not need any time to discuss my request, as the Commandments monument would not be removed.

RELIEF SOUGHT

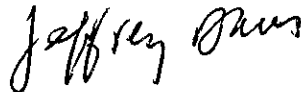
The Plaintiff asks that this court grant the following relief:

- i. A declaratory judgment that the Defendants' ownership, maintenance, and prominent display on public property of the Ten Commandments violates the Establishment Clause of the First Amendment of the United States Constitution and is a violation of the Plaintiff's Constitutional right under 42 U.S.C. Section 1983;
- ii. An injunction enjoining the Defendants (and their successors) from

displaying the Ten Commandments monument on public property or otherwise in violation of the Establishment Clause;

- iii. A judgment in the Plaintiff's favor for nominal damages;
- iv. An award to the Plaintiff of his reasonable costs, disbursements, and attorneys' fees as allowed by law from the Defendants pursuant to 42 U.S.C. Sections 1983 and 1988; and
- v. An award of such other and further relief as the Court shall deem just.

Dated this 11th day of March, 2016.



Jeffrey Davis
4079 Dry Run Road
Swanton, Maryland 21561
301-501-0376
jeffandsusan71@gmail.com

Exhibit 1



Exhibit 2



Exhibit 3



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Maryland

Jeffrey M. Davis

Plaintiff(s)

v.

Allegany County Commissioners:

Jacob C. Shade

Creade V. Brodie, Jr.

William R. Valentine

Defendant(s)

Civil Action No. 16CV689

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Jacob C. Shade, Allegany County Commissioner
Allegany County Office Building
701 Kelly Road
Cumberland, Maryland 21502-2803

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey Davis
4079 Dry Run Road
Swanton, Maryland 21561

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

for the

District of Maryland

Jeffrey M. Davis

Plaintiff(s)

v.

Allegany County Commissioners:

Jacob C. Shade

Creade V. Brodie, Jr.

William R. Valentine

Defendant(s)

Civil Action No. 16CV689

SUMMONS IN A CIVIL ACTION

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William R. Valentine, Allegany County Commissioner
Allegany County Office Building
701 Kelly Road
Cumberland, Maryland 21502-2803

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Jeffrey Davis
4079 Dry Run Road
Swanton, Maryland 21561

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

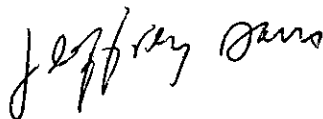
Civil Action No. 16CV689

After submitting my complaint and copies of summonses, I realized that I had misspelled the name of


one of the defendants. Jacob C. Shada should have been spelled Shade.

I have enclosed an amended copy of the complaint and summonses with correct spelling.

Thank you.



Jeffrey Davis
4079 Dry Run Rd.
Swanton, Maryland 21561
301-501-0376
jeffandsusan71@gmail.com

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