



December 9, 2011

VIA U.S. MAIL & EMAIL

Colonel Nicholas F. Marano, USMC
Commanding Officer
Marine Corps Base Camp Pendleton
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Re: *Memorial Cross at Camp Horno*

Dear Colonel Marano:

We are writing on behalf of our client, Elena Zurheide, who has asked us to urge you to defend the display of the memorial cross at Camp Horno. Ms Zurheide is the widow of Lance Corporal Robert P. Zurheide, USMC, who was killed in Iraq in 2004. Elena gave birth to their son a month after her husband's death.

Please know that the purpose of this letter is not to provide you with yet another legal opinion on the above matter, but to provide a voice in this dispute that is not often heard. It is the voice of those who will be truly harmed in a *real* way by the removal of the memorial cross.

By way of introduction, the Thomas More Law Center is a national, nonprofit public interest law firm based in Ann Arbor, Michigan. We have been actively engaged in litigation around the country defending the public display of religious symbols, particularly those symbols that serve as memorials to our fallen war heroes. You can learn more about the Law Center at www.thomasmore.org.

As you know, the Camp Horno cross was originally erected in 2003 by seven Marines from 2d Battalion, 1st Marines as a memorial to their fallen comrades. The regimental commander at the time, then Colonel John Toolan, USMC, who was instrumental in establishing the display, provided a granite 1st Marines regimental diamond to display along with the cross. Prior to deploying his regiment to Iraq in 2004, Colonel Toolan dedicated the memorial with sand from Guadalcanal. This tradition continued, as many Marines and family members of fallen Marines have made the difficult hike up the hill to place items of remembrance at the foot of the memorial cross. They have displayed sand from Iwo Jima to remember those Marines who have gone before us, and sand from Fallujah, to remember those Marines who more recently made the ultimate sacrifice. It is quite common to find rocks with messages, coins, dog tags, and uniform items displayed next to the memorial cross—all serving as symbols to remember a fallen family member or comrade.

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The original wooden cross was destroyed by a wildfire in 2007. A new fireproof cross was constructed and carried up the hilltop on November 10, 2011, the Marine Corps' birthday. It was permanently mounted at the exact site of the original cross the following day, which, quite appropriately, was Veterans Day. And so the tradition of remembrance continues. But it will only continue so long as the cross is allowed to remain.

Four of the original seven Marines who literally shouldered the burden to carry the heavy cross to its final destination in 2003 have since made an even greater sacrifice. Three of them were killed at war and one has sustained a serious brain injury resulting from combat action. The memorial cross now serves the additional purpose to honor these men.

One of the original Marines killed was Lance Corporal Zurheide, the fallen husband of our client. Lance Corporal Zurheide's son, Robbie, as he is called by Elena, has made the long trek up the hill with his grieving mother to visit the memorial to his father—a brave man whom he never met.

To Elena Zurheide, the memorial honors her husband's memory with the same importance and significance as his burial site. It provides her with a place of peace and solitude to mourn the loss of her husband and her son's father.

Indeed, to Chaplain Scott Radetski, who was by the side of the seven Marines as they displayed the original memorial and who was by their sides during combat operations in Iraq, the cross reminds him of all those who have paid the ultimate sacrifice for our country. At the cross, Chaplain Radetski recalls moments at war, such as when he looked into the eyes of Lance Corporal Zurheide as he took his last breath and the subsequent reflection of how Lance Corporal Zurheide's son has his father's eyes, as the chaplain noted during a dedication he held at the memorial cross after the young boy's father had passed.

In sum, for the family members of the deceased Marines, the memorial cross holds deep significance and is forever attached to the memory of their loved ones. Removing the cross will no doubt cause great pain for them—pain that can and should be avoided.

For most *reasonable* American citizens, and particularly those who have sacrificed so much and whose sons, daughters, husbands, and wives have died defending our country, specifically including our client, the memorial cross is a lasting tribute to fallen heroes. It does not “establish” Christianity as a national religion, as those who seek its removal contend.

From time immemorial, crosses have been used to memorialize fallen war veterans. A cross in the context of a war memorial has an undeniable historical meaning of self-sacrifice—in particular, of making the ultimate sacrifice for one's country.

Recently, U.S. Supreme Court Justice Kennedy noted that it is improper to concentrate solely on the religious aspects of a memorial cross, divorced from its background and context, when considering whether the display violates the Constitution. As Justice Kennedy observed in a case very similar to this, “[A] Latin cross is not merely a reaffirmation of Christian beliefs. It is a

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symbol often used to honor and respect those whose heroic acts, noble contributions, and patient striving help secure an honored place in history for this Nation and its people. Here, one Latin cross in the desert evokes far more than religion. It evokes thousands of small crosses in foreign fields marking the graves of Americans who fell in battles, battles whose tragedies are compounded if the fallen are forgotten.” The same can be said of the Camp Horno memorial cross.

Like most war memorials, the Camp Horno cross provides a place where family members, friends, and comrades of our war veterans can pay tribute to their heroes’ sacrifices. It is fitting that this memorial, which provides much comfort, peace, and solace for those who have sacrificed during time of war, is in the form of a cross—a universal symbol of sacrifice. Indeed, it would desecrate the memories of these war heroes to remove this cross. Accordingly, on behalf of our client and her son Robbie we urge you to maintain this memorial for future generations—so that young men such as Robbie will never forget the sacrifices made on their behalf.

Please also know that the attorneys at the Thomas More Law Center are experts on constitutional law, particularly its application to the display of religious symbols, such as the one at issue here. Accordingly, we offer you our legal services at no cost to help defend the display of this important memorial.

May God bless you, and may God bless America.

Respectfully yours,

THOMAS MORE LAW CENTER



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cc: Elena Zurheide