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## Judge rules Starke must keep cross off water tower

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A federal judge ruled the city of Starke must keep a cross, which had been perched atop a city water tower for years, off the structure.

The cross, which had been ordered placed on the tower in the 1970s by a power plant superintendent, came to the court's attention when American Atheists Inc. and a Starke resident, John Bevill, filed a lawsuit to remove it in 2005 in a Jacksonville federal court. The complaint noted the nation's constitutional guarantee of separation of church and state.

Bevill, who is an atheist and routinely drives by the tower, "feels alienated and demeaned by a sense that in the eyes of the community, his absence of religious belief renders him a second-class citizen."

In a 13-page order signed Monday, U.S. District Judge John H. Moore II noted there was support in the city to keep the cross.

After the lawsuit was filed, bumper stickers sprung up around Starke with a picture of water tower and reading "I support HIS CROSS." A city work crew directed to remove the cross earlier this year refused to do so.

But, in ruling the cross shouldn't be on the city tower, Moore quoted another court opinion that stated, "We cannot close our eyes to the light of the cross on the ground that it represents only a minor encroachment of this constitutional command, for the 'breach of neutrality that is today a trickling stream may all too soon become a raging torrent.' "

The city, during the course of the case, had acknowledged it paid for maintaining and lighting the cross.

Moore, in the order, said, "If ever there was a clear case of 'excessive governmental entanglement' with religion, this is it."

The cross disappeared from the tower last month.

The city ordered the cross taken down after reviewing the legal tests the court would use to evaluate if the structure violated federal law, the judge's order stated.

When a city of Starke work crew refused to remove the cross, Starke officials contracted with Gainesville Regional Utilities. Its employees removed the cross, leaving only a radio aerial on top of the tower that can be seen by motorists traveling through the city on U.S. 301.

In a motion seeking to dismiss the lawsuit, the city had told the judge the cross had been removed.

Moore, however, said that it was not clear the city wouldn't seek to put the cross back on the tower at a later date.

"Thus, the court can only conclude that without the entry of summary judgment the city may at some point in the future seek to put the cross back on the water tower," Moore wrote. He prohibited the city from "displaying, maintaining, illuminating or otherwise allowing" the cross to appear on the tower.

Edwin Kagin, the national legal director for American Atheists, called the judge's decision "a

great victory for the First Amendment separation of church and state."

In a statement, he said, "No government, whether federal, local or state, should be promoting sectarian religion and using public money to build and maintain religious displays."

An attorney for the city and city commissioners could not be reached for comment Wednesday.

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