



December 16, 2004

John J. Gallagher
County Administrator
West Pasco Government Center
7530 Little Road, Suite 340
New Port Richey, FL

Via fax transmission: (727) 815-7010

RE: *Christmas Tree Displays*

Dear Mr. Gallagher:

It has been brought to our attention that yesterday, pursuant to your instructions, Pasco County employees were told to remove Christmas trees from county-run libraries, recreation centers, community centers and other public areas. According to the account in today's *Pasco Times*, the basis for this action is the county's belief that U.S. Supreme Court precedents require this step. Nothing could be further from the truth.

By way of introduction, the American Center for Law and Justice (ACLJ) is a not-for-profit public interest law and educational group. Our organization exists to educate the public and government about the rights of freedom of speech and freedom of religion. Jay Sekulow, Chief Counsel for the American Center for Law and Justice, has served as lead counsel in four significant Supreme Court cases in this area: *Locke v. Davey*, 540 U.S. 712 (2004), *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000); *Lamb's Chapel v. Center Moriches School District*, 508 U.S. 384 (1993); and *Westside Board of Education v. Mergens*, 496 U.S. 226 (1990) and has submitted amicus curiae briefs on behalf of the ACLJ in numerous Supreme Court cases, including: *Good News Club v. Milford Central School Dist.*, 533 U.S. 98 (2001); *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995); and *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753 (1995).

The U.S. Supreme Court has *never* said that government may not display Christmas trees during the Christmas holiday season. In fact, the Court has said the opposite:

The Christmas tree, unlike the menorah, is not itself a religious symbol. Although Christmas trees once carried religious connotations, today they typify the secular celebration of Christmas (citation omitted). Numerous Americans place Christmas trees in their homes without subscribing to Christian religious beliefs, and *when the city's tree stands alone in front of the City-County building, it is not considered an endorsement of Christian faith.*

Allegheny County v. Greater Pittsburgh ACLU, 492 U.S. 573, 616-17 (1989).

This is the most recent Supreme Court word on the subject and it is plainly contrary to the County's position.

In *Lynch v. Donnelly*, 465 U.S. 668 (1984), the Supreme Court recognized that Christmas is a National Holiday observed "in this country by the people, by the Executive Branch, by the Congress, and the courts for 2 centuries." *Id.* at 686. As Justice O'Connor explained:

Celebration of public holidays which have cultural significance even if they also have religious aspects, is a legitimate secular purpose.

Id. at 691.

Pasco County's removal of Christmas trees from public property is what the Supreme Court has called "a stilted overreaction contrary to our history and our holdings." *Id.* at 686. There is simply no legal justification for the County's actions in this matter.

We urge you to reconsider and countermand your order immediately so that citizens of Pasco County are free to publicly observe their National Holiday in the same way as the rest of the Nation.

Very truly yours,

Francis J. Manion
Senior Counsel