

IN THE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

ROGER LAMUNION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:18-cv-01019
	)	
FULTON COUNTY, INDIANA,	)	
	)	
Defendant.	)	

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**Introductory Statement**

1. Each December, on the lawn outside the historic Fulton County Courthouse, a sizeable nativity scene is erected for the holiday season. This crèche—which is, of course, one of the pre-eminent symbols of Christianity—is erected not by any private organization or faith but by Fulton County itself. As such, a reasonable observer viewing the display would be forced to conclude that Fulton County supports and endorses the religious message conveyed by the display of the nativity. This message is not in any way dulled by the presence of secular figurines in relative proximity to the crèche. The plaintiff is a resident of Marshall County, the county immediately to the north of Fulton County, who comes into direct and unwelcome contact with the display each year. The display violates the Establishment Clause of the First Amendment to the United States Constitution, and the plaintiff is entitled to declaratory and injunctive relief.

**Jurisdiction, Venue, and Cause of Action**

- 2. This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.
- 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

4. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.
5. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the U.S. Constitution.

### **Parties**

6. Roger LaMunion is an adult resident of Marshall County, Indiana.
7. Fulton County, Indiana is one of Indiana's ninety-two counties and is located in the north-central portion of the state.

### **Factual Allegations**

8. The Fulton County Courthouse ("the Courthouse") is a historic building located in Rochester, Indiana, the county seat of Fulton County ("the County"). Located inside the Courthouse are not only the county courts but also several other government offices, such as the offices of the county clerk, the county prosecutor, and the county's probation department. Since 2000, the Courthouse has been listed on the National Register of Historic Places.
9. The Courthouse, like many other county courthouses in Indiana, is surrounded by a sizeable lawn that, together with the Courthouse, occupies an entire square block in Rochester's central downtown business district. The Courthouse lawn is bordered on the west by Main Street and on the south by Ninth Street, the two primary thoroughfares in Rochester.
10. The Courthouse lawn contains four permanent monuments: a memorial dedicated to the Potawatomi "Trail of Death"; a memorial dedicated to Rochester Normal University; and two war memorials. Aside from these four permanent monuments, the lawn contains a few trees but consists largely of open green space.

11. Each winter, however, the County erects on the south side of the Courthouse lawn a sizeable nativity scene. This crèche consists of a manger constructed from bales of hay and figurines representing several figures present in the story of the birth of Christ: Mary, Joseph, and the Baby Jesus; the three wise men; various animals; and even an angel positioned over the other figures. A photograph of the crèche is attached and incorporated herein as Exhibit 1.
12. This crèche has been displayed by the County on the Courthouse lawn each year for at least the past eight years, and likely for much longer.
13. A crèche, of course, is one of the preeminent symbols of Christianity, and is readily and exclusively associated with that religion. The display of the crèche on the Courthouse lawn lacks a secular purpose, it has the principle effect of advancing religion, and a reasonable observer would conclude that it constitutes governmental endorsement of religion.
14. In addition to the crèche, each year the County erects a “Santa house” on the west side of the Courthouse lawn. This “Santa house” is a small structure that children may visit for a couple of hours each weekend day in order to sit on Santa’s lap and tell Santa what they would like for Christmas. This “Santa house” is physically removed from the crèche, is not a part of the same display as the crèche, and does not in any way dull the religious impact or message of the crèche. A photograph of the “Santa house” is attached and incorporated herein as Exhibit 2.
15. For the past two years, but not before that, the County has also placed four small figurines on the Courthouse lawn: a Santa figurine, a snowman figurine, a reindeer figurine with lights, and a candle figurine. These four figurines are placed on the southwest side of the Courthouse lawn, a short distance—perhaps ten or twenty yards—from the crèche display.

While these four figurines are in relative proximity to the crèche, they are not part of the same display nor would a reasonable person conclude that they were part of the same display. A photograph of these four figurines, showing their proximity to the crèche display, is attached and incorporated herein as Exhibit 3.

16. The display of the nativity scene during the holiday season has the principle purpose and effect of advancing one preferred religion over all others. A reasonable person viewing the display could only conclude that the County endorsed the religious display and the Christian faith.
17. Roger LaMunion resides in Argos, Indiana, a small town in Marshall County, Indiana, that is not far from Rochester.
18. Mr. LaMunion previously worked in Rochester, near the Courthouse, although he is now retired. Even though he no longer travels to Rochester on a daily basis, each December he will make multiple trips to Rochester in order to run errands or for other personal reasons. As Rochester is not a large city, these trips will inevitably require him to pass the Courthouse lawn and the nativity scene displayed there.
19. Mr. LaMunion objects to the display of the crèche on the Courthouse lawn as he does not believe that local government should be endorsing a religious faith. However, his trips to Rochester during December bring him into direct and unwelcome contact with the display.
20. The defendant has, at all times, acted or refused to act under color of state law.
21. As a result of the actions or inactions of the defendant, the plaintiff is suffering irreparable harm for which there is no remedy at law.

### **Legal Claim**

22. The display of the nativity scene on the lawn of the Fulton County Courthouse violates the Establishment Clause of the First Amendment to the United States Constitution.

**Request for Relief**

**WHEREFORE**, the plaintiff requests that this Court:

1. Accept jurisdiction of this cause and set it for hearing.
2. Declare that the defendant has violated the rights of the plaintiff for the reason described above.
3. Issue a preliminary injunction, later to be made permanent, prohibiting the defendant from displaying a crèche on the lawn of the Fulton County Courthouse.
4. Award the plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
5. Award all other proper relief.

*/s/ Gavin M. Rose* \_\_\_\_\_

Gavin M. Rose  
ACLU OF INDIANA  
1031 E. Washington St.  
Indianapolis, IN 46202  
Ph: 317.635.4059  
Fax: 317.635.4105  
<grose@aclu-in.org>

*Attorney for the plaintiff*