

NATIVITY SCENE VICTORY; AUTHORITIES YIELD

It was a fast turnaround. The day after we notified local government officials in upstate New York that they were unconstitutionally banning a nativity scene, they yielded.

A few weeks before Christmas, we were contacted by Knights of Columbus Council #275 about their being denied the right to erect a nativity scene outside the Ulster County office building, something they had done for many years. Yet a menorah and a Christmas tree were allowed inside the building.

On December 9, Bill Donohue wrote a letter to Ulster County Executive Patrick Ryan explaining why his decision was constitutionally problematic. He cited two Supreme Court decisions from the 1980s that Ryan was violating: *Lynch v. Donnelly* and *County of Allegheny v. American Civil Liberties Union*.

Donohue told Ryan that “you have created two constitutional problems: a) you have denied the display of a crèche in an area where it would be surrounded by a secular symbol, namely a Christmas tree [thus making it legal], and b) you have discriminated against Christians for barring their religious symbol while permitting Jews to display theirs.”

Two options were outlined by Donohue. He said, “you can ban the menorah or you can include the crèche. The former option makes claims of discrimination moot; it is also the intolerant alternative. The latter option is inclusive, exhibits tolerance, and ends the controversy.”

Ryan was also informed that in the 1984 *Lynch* decision, the Supreme Court ruled that the Constitution “affirmatively mandates accommodation, not merely tolerance of all religions, and forbids hostility toward any. That would argue in favor of

allowing the crèche to be displayed alongside the menorah and the Christmas tree.”

Donohue closed his letter as follows: “By acceding to this request, needless litigation can be avoided. Because Christmas is upon us, we will need to hear from you as soon as possible.”

On December 10, Donohue received a phone call from Marc Rider, Deputy County Executive at Ulster County, explaining that a decision was reached to place the nativity scene alongside the menorah and the Christmas tree in the lobby of the building (having the crèche stand by itself outside might show favoritism for the Christian symbol). Donohue thanked him for his reasonableness.

This was an important victory. We confront these battles every year.

The Catholic League is delighted to help the Knights of Columbus. They have some very courageous people at the local and state levels.