

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF INDIANA  
 INDIANAPOLIS DIVISION

JOSEPH TOMPKINS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:16-cv-3315
	)	
TOWN OF KNIGHTSTOWN, INDIANA,	)	
	)	
Defendant.	)	

**Complaint for Declaratory and Injunctive Relief**

**Introduction**

1. The town square in Knightstown, Indiana, is dominated by a large evergreen tree. During the Christmas season it is decorated by the Town with lights and ornaments. At the top of the tree is placed a large Latin cross, which is illuminated at night by lights that circle it. There are no other holiday decorations on the square. The cross is the best known symbol of Christianity and Knightstown’s prominent display of this symbol represents an establishment of religion in violation of the First Amendment to the United States Constitution. Appropriate injunctive and declaratory relief must issue.

**Jurisdiction, venue, and cause of action**

2. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1331 and 1343.
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. Plaintiff’s claim is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

## **Parties**

6. Joseph Tompkins is an adult resident of Knightstown, Indiana.
7. The Town of Knightstown is a municipal entity located in Henry County, Indiana.

## **Factual allegations**

8. Located in the center of Knightstown, on the north side of U.S. 40, is a one block median area, on North Washington Street, referred to as Knightstown's town square.
9. Knightstown's town square contains a large evergreen tree, a gazebo, benches, tables, and a flagpole and seasonal plantings. (*See Exhibit 1*).
10. The Knightstown police station and Town Hall are located less than one block south of the town square, across U.S. 40 on South Washington Street.
11. For a number of years the Town of Knightstown has placed decorations and lights on the tree during the Christmas season.
12. At night the lights are illuminated and the tree becomes a large Christmas tree.
13. For a number of years the Town of Knightstown has placed a large Latin cross at the top of the tree.
14. It is also illuminated at night.
15. Attached to this complaint as exhibits 2-6 are current photographs of the town square, the tree and the cross.
16. The Latin cross is the preeminent symbol of Christianity, representing the instrument of the crucifixion of Jesus.
17. The religious significance of the cross is not in any way diminished by any secular objects around it. It is a religious display.
18. Joseph Tompkins is a resident of the Town of Knightstown and is a taxpayer.

19. Mr. Tompkins reasonably perceives the Town of Knightstown's display of the Latin cross as a Christian religious display.
20. He strongly objects to this display as he believes that government should not be establishing religion of any kind.
21. He objects to any of his tax dollars going to pay for the erection or maintenance of the display or the lighting of it.
22. In the course of his every day affairs and travel in his hometown of Knightstown he is forced to come into direct and unwelcome contact with the cross display.
23. He is being caused irreparable harm for which there is no adequate remedy at law.
24. At all times defendant has acted under color of state law.

**Claim for relief**

24, The display of the Latin cross on the town square in Knightstown violates the Establishment Clause of the First Amendment to the United States Constitution.

**Requests for relief**

WHEREFORE, plaintiff requests that this Court:

- a. Accept jurisdiction of this case and set it for hearing at the earliest opportunity.
- b. Declare that the actions of the defendant violate the First Amendment to the United States Constitution as noted above.
- c. Enter a preliminary injunction, later to be made permanent, enjoining the Town of Knightstown to remove the Latin cross currently on display on Town property.
- d. Award plaintiff his costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.
- e. Award all other proper relief.

s/ Kenneth J. Falk

Kenneth J. Falk

s/ Jan P. Mensz

Jan P. Mensz

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