No. _____

In The
Supreme Court of the United States

WADE STEVEN GARDNER, Mary Joyce Stevens, Randy Whittaker, Individually and on behalf of Southern War Cry, Amy Strickland on behalf of Veterans Monuments of America, Inc., Phil Walters, on behalf of Judah P. Benjamin Camp #2210 Sons of Confederate Veterans, and Ken Daniel, on behalf of Save Southern Heritage, Inc.,

Petitioners,

v.

WILLIAM MUTZ IN HIS CAPACITY AS MAYOR OF THE CITY OF LAKELAND, FLORIDA, Tony Delgado in his Capacity as Administrator of the City of Lakeland, Florida, Don Selvege, Individually and in his Capacity as City of Lakeland, Florida Commissioner, Justin Troller, Individually and in his Capacity as City of Lakeland, Florida Commissioner, Phillip Walker, Individually and in his Capacity as City of Lakeland, Florida Commissioner, Antonio Padilla in his Capacity as President of Energy Services & Products Corp., Kenneth Detzner in his Capacity as Secretary of State of the State of Florida,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Should the government speech doctrine as recognized in *Pleasant Grove City, Utah v. Summum* be modified in cases involving legacy monuments already in place in public forums?

PARTIES TO THE PROCEEDING

In case No. 20-13980, Petitioners Wade Steven Gardner, Mary Joyce Stevens, Randy Whittaker Individually and on behalf of Southern War Cry, Andy Strickland on behalf of Veterans Monuments of America, Inc., Phil Walters on behalf of Judah P. Benjamin Camp #2210 Sons of Confederate Veterans, and Ken Daniel on behalf of Save Southern Heritage, Inc. were the plaintiffs in the district court proceedings and the appellants in the court of appeals proceedings.

Respondents William Mutz, in his capacity as Mayor of Lakeland, Florida, Tony Delgado in his Capacity as Administrator of the City of Lakeland, Florida, Don Selvege, Individually and in his Capacity as City of Lakeland, Florida Commissioner, Justin Troller, Individually and in his as City of Lakeland, Florida Commissioner, Phillip Walker, Individually and in his Capacity as City of Lakeland, Florida Commissioner, Antonio Padilla in his Capacity as President of Energy Services & Products Corp., Kenneth Detzner in his Capacity as Secretary of State of the State of Florida, were the defendants in the district court proceedings and the appellees in the court of appeals proceedings.

CORPORATE DISCLOSURE STATEMENT

Save Southern Heritage, Inc. and Veterans Monuments of America, Inc. are the only corporate petitioners. There are no parent corporations or publicly held companies owning 10% or more of the Veterans Monuments of America, Inc. or Save Southern Heritage, Inc.'s stock.

DIRECTLY RELATED CASES

- *Gardner v. Mutz*, No. 8:18-CV-2843-T-33JSS, 2018 WL 6061447, at *1 (M.D. Fla. Nov. 20, 2018) the district court denied Petitioners' request for a temporary restraining order. Order entered on November 20, 2018.
- *Gardner v. Mutz*, No. 8:18-cv-2843-T-33JSS, 360 F. Supp. 3d 1269 (M.D. Fla. 2019) the district court dismissed Petitioners' First Amendment constitutional claim with prejudice and due process constitutional and state law claims without prejudice. Order entered January 28, 2019.
- *Gardner v. Mutz*, No. 19-10461, 962, F.3d 1329, 1334 (11th Cir. 2020), the Eleventh Circuit Court of Appeals affirmed in part and vacated in part, remanded the district court's dismissal of Petitioners' claims. Judgment entered June 22, 2020.

DIRECTLY RELATED CASES – Continued

- *Gardner v. Mutz*, No. 8:18-cv-2843-T-33JSS, 488 F. Supp. 3d 1204, 1206 (M.D. Fla. 2020), *aff'd*, 857 F. App'x 633 (11th Cir. 2021), the district court dismissed the First Amendment claim without prejudice for lack of standing and denied Petitioners' motion to amend complaint. Judgment entered September 22, 2020.
- *Gardner v. Mutz*, No. 20-13980, 857 F. App'x 633, 634 (11th Cir. 2021), the Eleventh Circuit affirmed the district court's dismissal. Judgment entered May 24, 2021.

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OPINIONS BELOW

The Eleventh Circuit's Opinion is reported at *Gardner v. Mutz*, No. 20-13980, 857 F. App'x 633, 634 (11th Cir. 2021) and reproduced at App. 1. The Judgment of the Eleventh Circuit for *Gardner v. Mutz*, No. 19-10461, is reproduced at App. 21. The Order Denying Second Motion for Leave to Amend Complaint *Gardner v. Mutz*, No. 8:18-cv-2843-T-33JSS, 488 F. Supp. 3d 1204, 1206 (M.D. Fla. 2020) is reproduced at App. 47.

JURISDICTION

The Eleventh Circuit Court of Appeals entered judgment on May 24, 2021. App. 1. This Court has jurisdiction under 28 U.S.C. §1254(1).

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. I.

INTRODUCTION AND STATEMENT OF THE CASE

Petitioners ask this Court to review the dismissal of Petitioners' First Amendment claim by the District Court and affirmed by the Eleventh Circuit Court of Appeals. The case involves a Cenotaph erected in Lakeland, Florida, in Munn Park, a traditional civic public town square and centerpiece of the Nationally Registered Munn Park Historical District. The District Court denied the Petitioners' request to amend their Complaint because it found amendment would be futile to state First Amendment and Fourteenth Amendment claims.

The Cenotaph was erected in 1909, it was the product of the public fundraising efforts of the United Daughters of the Confederacy with the permission and financial participation of the Lakeland City Commission. Subsequently, the City used the Cenotaph in its successful request for National Register designation

for the area now known as the Munn Park Historical District. On December 4, 2017, the Lakeland City Commission, including the City Respondents, initiated removal of the Cenotaph from the center of Munn Park and the epicenter of the Historical District, and the City's historic public forum.

On November 20, 2018, the Petitioners brought suit to forestall the imminent removal of the Cenotaph. Doc. 1, Pg. 1-35. The City Respondents moved the District Court to dismiss the case on the grounds of standing and the assertion of the absolute right of unfettered government speech. Respondent Padilla filed a separate motion to dismiss on similar grounds. The District Court issued an order on January 28, 2019, granting dismissal and closed the case.

The District Court found a lack of standing as to Petitioners' request for declaratory judgment regarding breaches of due process and dismissed the claim without prejudice and dismissed Petitioners' First Amendment claim with prejudice. Doc. 43, Pg. 17. The District Court also refused to assert supplemental jurisdiction of Petitioners' state claims and dismissed Petitioners' state law claims without prejudice. Doc. 43, Pg. 17. Petitioners filed a timely Notice of Appeal, but despite pendency of their appeal, the City Respondents and Respondent Padillo moved ahead with removal of the Cenotaph in May 2019. It was transported and re-erected in a newly created non-historic city park on a site that had been gentrified by the City from being a traditionally historically "black" neighborhood.

The Petitioners' appeal was heard by the Eleventh Circuit in *Gardner v. Mutz*, 962 F.3d 1329, 1343 (11th Cir. 2020). The Eleventh Circuit held the Petitioners had no standing to bring their claims under Article III standing requirements. Doc. 48, Pg. 25. The Eleventh Circuit affirmed the dismissal of Petitioners' declaratory judgment claim based on due process violations and remanded the First Amendment claim back to the District Court to dismiss without prejudice to refiling which provided the Petitioners an opportunity to refile their claim. Doc. 48, Pg. 26. Thus, the case went back to the District Court.

Once the case was remanded, the Petitioners immediately requested leave to amend their Complaint to resolve the deficiency in standing identified by the Eleventh Circuit so as to avoid the wasted time and expense of filing a new suit, Doc. 51, 1-32, despite the pro forma docket entry dismissal entered the same day the case was remanded dismissing Petitioners' First Amendment claim without prejudice. On September 22, 2020, the District Court entered an Order denying Petitioners' request to amend and ordering the case to remain closed.

Once again, Petitioners appealed to the Eleventh Circuit. In *Gardner v. Mutz*, 857 F. App'x 633, 634 (11th Cir. 2021), the Eleventh Circuit found that the Petitioners' amended complaint had asserted sufficient facts to support Article III standing but affirmed the District Court's dismissal based on a failure to state First Amendment and Fourteenth Amendment claims.

Petitioners ask this Court to take this opportunity to re-examine *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 129 S.Ct. 1125 (2009) and distinguish whether legacy monuments constitute government speech or a form of hybrid speech representing the partnership between government and private speech based on the long-standing public display of the monuments and as such, whether the removal of the monuments constitute a violation of First Amendment Free Speech rights. While the Cenotaph has been removed at this point, it is still under the control of the City and Petitioners seek to have the Cenotaph moved back to its legacy location.

REASONS FOR GRANTING THE PETITION

Petitioners ask the Court to grant their petition because courts across the country are indiscriminately applying *Pleasant Grove City, Utah v. Summum* and finding legacy monuments are not protected by the First Amendment. Municipalities are relying on *Summum* to silence speech that they have co-authored for years, and which does not fit into the "government speech" mold that was set forth in *Summum*.

I. *Summum* has taken on a life of its own and become a Knee-Jerk Defense to First Amendment Free Speech Challenges.

A. The Development of the Government Speech Doctrine.

The Supreme Court long ago recognized that members of the public retain strong free speech rights when they venture into public streets and parks. In *Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 59 S.Ct. 954 (1939), this Court recognized:

> Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.

Hague, 307 U.S. at 515-16. In places which by long tradition or by government fiat have been devoted to assembly and debate, the rights of the state to limit expressive activity should be sharply circumscribed. *Perry Ed. Assn. v. Perry Local Educators' Assn.*, 460 U.S. 37, 45, 103 S.Ct. 948 (1983). In these quintessential public forums, the government may not prohibit all communicative activity. *Id.* For the state to enforce a content-based exclusion it must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end. *Carey v. Brown*, 447 U.S. 455, 461, 100 S.Ct. 2286, 2290

(1980). The First Amendment guarantees that "the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." *Texas v. Johnson*, 491 U.S. 397, 414, 109 S.Ct. 2533 (1989).

The Court first wrestled with the concept of government speech in cases where public agencies expended funds that supported private individuals or groups. The origin of the government speech doctrine is typically traced back to *Rust v. Sullivan*, 500 U.S. 173, 111 S.Ct. 1759 (1991). In *Rust*, this Court considered a First Amendment challenge to federal regulations that prohibited doctors who accepted certain federal funds from counseling patients on abortion as a family planning method. *Rust*, 500 U.S. at 191-92. Although the Court never used the term "government speech doctrine," or any variation on the phrase, it held that the government need not support messages or speech that compete with its own viewpoint. This Court continued to develop the doctrine as it related to literal speech in *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 115 S.Ct. 2510, 2511 (1995) and *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 125 S.Ct. 2055, 2056 (2005). Then in *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 129 S.Ct. 1125 (2009), the Court expanded the government speech doctrine from literal speech to speech proposed or crafted by private parties and facilitated by the government, by displaying the message on a government medium.

B. *Summum* was a Major Departure from the Previous Applications of the Government Speech Doctrine.

In *Summum*, this Court departed from previous cases that limited the domain of government speech to direct, literal government action to expand the government speech doctrine to permanent monuments displayed on public property including those provided by private parties. The facts of *Summum* arose from a town rejecting the donation of a monument conveying religious text to be erected in a public park even though the park already had a privately donated statue of the Ten Commandments. *Summum*, 555 U.S. at 465-66. This Court found that a statue in a public park is speech. *Id.* at 471. But the Court did not apply a traditional First Amendment forum test. Instead, the Justices unanimously held that curation of privately donated monuments in the park was the town's own speech and thus did not violate the First Amendment rights of the donor. *Id.* at 481. The Court relied on the fact that monuments have historically been used by governments to express their messages, that the town exercised "selected receptivity" to curate its message, and that the public closely identifies city parks with the cities that own them. *Id.* at 471-72. Importantly, the holding recognized that the doctrine could apply where private parties express the government's message: "[a] government entity may exercise [the] same freedom to express its views [even] when it receives assistance from private sources for the purpose of delivering a government-controlled message."

Id. at 468. The Court emphasized the Free Speech Clause restricted government regulation of private speech, but it did not regulate government speech. *Id*. at 467. By so doing, the monument in *Summum* was immune from First Amendment restraints under the Free Speech Clause. *Id.* Both Justices Souter and Breyer feared an expansion of the doctrine, with Souter explicitly stating in his concurrence that an overly broad government speech doctrine would make it easy for the government to pick and choose among viewpoints, supporting those it favors and suppressing those it does not. *Id.* at 487 (Souter, J., concurring). Justice Souter's concern of categorical rule has become a harsh reality for monuments that express a different viewpoint than those that are currently in favor and has expanded in application over the years with no limit in sight.

C. This Court's Departure from the Traditional Application of the Government Speech Doctrine in *Summum* has Resulted in an Expansion Into All Types and Modes of Speech Being Banned by the Government.

The jump from literal speech to monuments in *Summum* has opened the floodgates on what the government will argue is protected by the government speech doctrine. In *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 135 S.Ct. 2239 (2015) this Court heavily citing *Summum* expanded when symbolic speech may qualify as government

speech. The Court held that restricting vanity license plate designs was permissible as it was government speech using the following test from *Summum*: (1) whether the medium of expression has traditionally been used to express government messages, (2) whether the medium is "closely identified in the public mind" with the state, and (3) whether the state maintains "direct control" and "final approval authority" over the message. *Walker*, 576 U.S. at 212-13. Application of the *Summum* test convinced the Court that the license plates were government speech, as opposed to the creation of a public forum for private speech or mixed government and private speech. *Id.* at 208-09. The *Walker* Court did not explain exactly why it chose to use the *Summum* test or why the appellate court's reasoning was incorrect or flawed. It simply applied the test from *Summum*. *Id.* at 207. Finally, the *Walker* Court neither explicitly endorsed the *Summum* test for all government-speech cases, nor explicitly rejected any of the other tests used in circuit court cases or developed in the *Summum* concurrences. The dissent in *Walker* did warn about the potential pitfalls of the continued expansion of the government speech doctrine. *Walker*, 135 S.Ct. at 2254 (Alito, J., dissenting) ("[The decision] establishes a precedent that threatens private speech that government finds displeasing."). Again, the warning was ignored.

Recently, the Eleventh Circuit decided *Leake v. Drinkard*, 20-13868, 2021 WL 4438899, at *1 (11th Cir. Sept. 28, 2021). In *Leake*, a member of the Sons of Confederate Veterans, Richard Leake, applied to

participate in the Old Soldiers Day Parade, a pro-American veterans' parade funded and organized by the City of Alpharetta, Georgia. *Id.* at *1. The Sons of Confederate Veterans had participated in the parade with the Confederate Battle Flag for some 18 years with no problems. The City informed Leake that the Sons of Confederate Veterans would be allowed to participate, but only if it agreed not to fly the Confederate battle flag. *Id.* Leake and another member of the group filed suit against City officials alleging that the City violated their constitutional rights to speak freely under the First and Fourteenth Amendments. *Id.* While admitting there is no precise test to determine whether speech is government speech, the Eleventh Circuit applied its own three factor test set forth in *Mech v. Sch. Bd.*, 806 F.3d 1070, 1074 (11th Cir. 2015) looking at: history, endorsement, and control. *Id.* Applying the *Mech* factors to the parade and frequently citing *Summum*, the Eleventh Circuit held the American war veterans' parade, made up of hundreds of people, constituted government speech, and thus, the government was entitled to choose what viewpoints would and would not be expressed in the parade. *Summum* has again been expanded to another form of speech tangentially associated with the government, and thus, not subject to the protections of the First Amendment.

II. *Summum* Should Not Be Applied to Legacy Monument Cases.

A. Legacy Monuments do not fit within the holding of *Summum*.

The Cenotaph was erected in Lakeland, Florida, in Munn Park, a traditional civic public town square and centerpiece of the Nationally Registered Munn Park Historical District. It consists of a granite base and obelisk surmounted by a statue of a Confederate soldier. It is some 26 feet high, weighing approximately 14 tons. It is engraved with the words "Confederate Dead" as well as a poem and base relief art and the Southern Cross. Erected in 1909, it was the product of the public fundraising efforts of the United Daughters of the Confederacy with the permission and financial participation of the Lakeland City Commission. The Cenotaph is a legacy of speech displayed for over 109 years in a partnership between private individuals and organizations and the local government. While a few currently in leadership positions with the City of Lakeland see a monument to white supremacy and slavery, others see the monument as a memorial to local soldiers that sacrificed their lives in war.

The Cenotaph is built out of stone and bronze and was meant to be permanent and withstand the passage of time. The women who raised the money to build the monument at a time when funding was scarce believed the natural elements would be the biggest threat and could not imagine the very government that partnered with them to place the monument in the community for the community would be the force that tears them

down. The Cenotaph displayed in Lakeland's town square for over 109 years should be granted more protection than a new request to erect a monument in a new public park as in *Summum*. While the government has the right to erect new monuments and may necessarily decide what those monuments should represent, the old, legacy monuments the local governments approved of and honored for decades that have served as memorials to the dead deserve more protection. The monuments located in the National Mall in Washington D.C. that memorialize the dead have been added to over time, from the Washington Monument to the Lincoln Memorial, to the recent Martin Luther King Memorial and represent speech the government has found acceptable to display over time. None of them have been removed. It is not a zero-sum game, where only one speech is allowed at a time, nor is it a chess game where monuments should be moved about at the whim of who controls the landscape. *Summum* recognizes the limitations of space, but such should only be a factor and not absolutely determinative of the placement and maintenance of legacy monuments. Nor is it a ping-pong game of removal and replacement from one administration to the next, ad infinitum.

The *Summum* case has served its term; as did *Plessy v. Ferguson*, 163 U.S. 537, 538, 16 S.Ct. 1138 (1896), and should be modified for the same reason found in *Brown v. Bd. of Ed. of Topeka, Shawnee County, Kan.*, 347 U.S. 483, 74 S.Ct. 686 (1954). Separate is not equal when it comes to expression, as it is not in education, accommodation, and transportation.

Unilaterally moving expressive monuments away from the traditional public squares, they have occupied for generations is not the cure-all governments wish it to be when virtue-signaling their own opinions and arbitrarily suppressing contrary pre-existing views.

B. *American Legion*'s Test may be applied to First Amendment Free Speech Cases to Narrow *Summum* When Legacy Monuments are Involved.

In *American Legion v. American Humanist Ass'n*, 139 S.Ct. 2067 204 L. Ed. 2d 452 (2019) this Court recently acknowledged that a monument could have multiple meanings that develop over time. *American Legion*, 139 S.Ct. at 2074. The Bladensburg Peace Cross ("Bladensburg Cross") was erected as a tribute to 49 area soldiers who gave their lives in the First World War. *Id.* at 2074. Eighty-nine years after the dedication of the Bladensburg Cross, the plaintiffs filed the lawsuit, claiming that they were offended by the sight of the memorial on public land. While the *American Legion* case involves an alleged violation of the Establishment Clause of the First Amendment and not the Free Speech Clause, this Court recognized that over time symbols like the Bladensburg Cross could take on special significance as a memorial symbolizing the community's grief over the loss of young men who sacrificed their lives. *Id.* In *American Legion*, this Court adopted "a presumption of constitutionality" for religiously expressive "longstanding monuments, symbols, and practices." *Id*. at 2082.

In reaching that holding, this Court provided four reasons why the application of a presumption of constitutionality was better suited for cases involving long standing monuments: (1) when monuments, symbols, or practices were originally established long ago, "identifying their original purpose or purposes may be especially difficult"; (2) with the passage of time, "the purposes associated with an established monument, symbol, or practice" and the reasons for maintaining them "often multiply"; (3) the message conveyed by the monument, symbol, or practice may evolve over time and "[t]he community may come to value them without necessarily embracing their religious roots"; and (4) when the monument, symbol, or practice has become familiar and of historical significance, "removing it may no longer appear neutral" but "aggressively hostile to religion." *Id.* at 2081-85. Finally, this Court suggested that the presumption could be overcome by a showing of discriminatory intent in the decision to maintain the challenged practice or by a showing of "deliberate [] disrespect []" by that practice on the basis of religion. *Id.* at 2074, 2089. Petitioners request this same test adopted for the Establishment Clause be applied to First Amendment Free Speech cases involving legacy monuments.

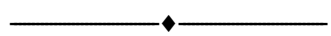
The Cenotaph shares many similarities with the Bladensburg Cross. The Cenotaph was erected over 109 years ago while the Bladensburg Cross was erected over 89 years ago. While some just see the Bladensburg Cross as a symbol of Christianity supported by the government, it was erected as a

memorial and over time has shown to be a location for the community to express their grief over the loss of 49 local soldiers to the atrocities of war. The Cenotaph is seen by some as just a monument to white supremacy and slavery, but it too was erected as a memorial and over time has shown to be a location for the community to express their grief over the loss of soldiers to the atrocities of war. The *American Legion* Court found the long standing, Bladensburg Cross deserved special protection when a new request to erect a cross in a public park should not and would invoke the protections of the Establishment Clause. "A nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people." John. F. Kennedy. Petitioners ask for the same consideration to be extended to legacy monuments in First Amendment Free Speech Clause cases to protect the many messages represented in the Cenotaph that have stood the test of time at the cost of one message that a few may currently find offensive.

C. If this Court Finds the *American Legion* test Unworkable Outside Establishment Clause Cases, then Petitioners ask that this Court Adopt Another Test to Narrow *Summum* or overrule *Summum* Altogether.

If this Court finds the four-part test outlined in *American Legion* should not be applied to First Amendment Free Speech cases, then Petitioners ask this Court to adopt another test to take into account the

legacy and memorial status of the monuments or take this opportunity to hold all pre-existing historical monuments erected before *Summum* protected by "grandfathering" them in; a widely recognized and understood principle regarding legacy matters. The government's use of *Summum* to defend the decisions to remove monuments has led to the removal of legacy monuments in this country standing for over 100 years, the denial of the choice to express your support for your ancestry on specialty license plates, and a group of veterans denied the right to march in a parade because they wanted to carry a specific flag. It has led to the removal of countless historical American war memorials and other monuments. It has led to the removal history and voices from the past that provide continuity for the American tradition. *Summum*'s holding that all speech with any link to the government on public property is government speech is not tenable. It has led to a complete shield for all current government officials to decide what is expressed on public property or at public events. The test used in *Summum* is also inefficient, as it requires the courts to decide what expression constitutes government speech on a case-by-case basis. *Summum* is being used for after-the-fact government censorship and retroactive content discrimination and this case represents an opportunity for this Court to put reasonable limits on its application or abolish it altogether.



CONCLUSION

Monuments carry messages from speakers from the past and deserve to have their messages protected. They cannot petition the court, so the persons using monuments to repeat and reinforce these messages at any given point are given the ability to bring the matter to court for judicial review. G.K. Chesterton wrote: "Tradition means giving votes to the most obscure of all classes, our ancestors, it is the democracy of the dead. Tradition refuses to submit to that small and arrogant oligarchy who merely happen to be walking about." G.K. Chesterton, Orthodoxy, 85 (1908). And not all venues are created equal.

This case has the potential to affect public spaces all across America and settle the current state of unrest, if the Court will give guidance as to the limits of governmental speech, and the supremacy of established free speech. Otherwise, at some point, the civic landscape will be cleared of every monument in due time, to the detriment of both speech and history.

For the foregoing reasons, the Court should grant a writ of certiorari.

Respectfully submitted,

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