

US Supreme Court turns down case over roadside crosses in Utah

WASHINGTON - The Supreme Court declined to take up a case from Utah in which a federal appeals court ruled it unconstitutional to allow memorial crosses on state land along highways.

By an 8-1 vote, the court decided Oct. 31 not to take the case in which the 10th U.S. Circuit Court of Appeals said that the memorial crosses were unconstitutional because reasonable observers could conclude their presence along state highways meant the markers were a government endorsement of Christianity.

In an unusual 19-page written dissent from the order, Justice Clarence Thomas decried the majority's decision to let the 10th Circuit ruling stand. The agreement of four justices is required to put a case on the court's docket.

In his dissent, Thomas said the court was rejecting the chance to "provide clarity to an Establishment Clause jurisprudence in shambles."

He went through an array of recent cases dealing with the relation of government action and religion, noting "our Establishment Clause precedents remain impenetrable, and the lower courts' decisions - including the 10th Circuit's decision below - remain incapable of coherent explanation. It is difficult to imagine an area of the law more in need of clarity."

The case arose when American Atheists sued the state in 2005 over the placement of the crosses by the private Utah Highway Patrol Association. The organization since 1998 has placed the 12-foot-high crosses around the state to memorialize dead highway patrol officers. In court documents, the association says crosses were chosen not as a Christian symbol but because they are widely recognized as communicating "to motorists passing at highway speeds the 'simultaneous messages of death, honor, remembrance, gratitude, sacrifice and safety.'"

Though the crosses are erected and maintained by the association, most of them are located on state land. The state government had made clear it was not involved in

placing or caring for the crosses, but the lower court concluded that passers-by might reasonably conclude otherwise.