

Columbiana Civil Liberties Union (CCLU),

*Petitioner,*

v.

State of Columbiana,

*Respondent.*

On August 28, 2020, the Martin Luther King, Jr. Memorial was officially opened to the public of Columbiana after over twenty-five years of planning. Set atop Ivory Hill in the *Columbiana Ivory Hill State Park*, the Memorial was heralded in the local press “as elegant in its simplicity.”

Ivory Hill –known throughout Columbiana – is so-named because the hill is barren save for a golden prairie grass that turns almost white under the summer’s sun. However, among the local black community, the hill is known derisively as either “Whitey’s Hill” or “Lynch Mountain” because of its role in the area’s history. Based upon historians’ best estimates, as many as 387 African Americans were lynched on Ivory Hill between 1882 and 1937.

Supposedly the hill is denuded - save for the grass that is its namesake – because the Columbiana Klu Klux Klan (KKK) cut down all the trees on the hill and used some to build a large cross on the very top of the hill. Young black men would be hung from the cross bar. Indeed, local historian, May Evans, when doing research for appropriate Memorial sites found one of the few surviving pictures of a lynching at that time. Dated 1927, the grainy black-and-white photograph showed a large cross on the hill with a young black man dangling from its right cross bar. Nailed to the top of the cross was a plaque with the words: “those that are beneath us.”

Because of this history, Ivory Hill was also the site of major clashes during the race riots of the 1960s. In fact, during one week shortly after Martin Luther King’s assassination in April 1968, the bodies of four black teens were found in the nearby woods. The beatings had been so heinous that none of the victims were ever positively identified. No one was ever convicted for these crimes.

In 1989, owing to its natural beauty and trying to divorce it of its violent past, Columbiana created the *Columbiana Ivory Hill State Park*. The state placed various markers of historical significance within the park, but none dealt with the violent history of Ivory Hill. Five years later, the Martin Luther King Jr. Memorial Committee petitioned the state to allow a memorial to Dr. King to be placed on Ivory Hill within the confines of the State Park. After much discussion the request was granted and finally, in 2020, the Memorial was completed. The memorial consists of a statue of a seated and reflective Dr. King looking down on Ivory Hill. The statue is twenty feet high with various quotations from Dr. King inscribed on its base.

Before the clean-up from the opening festivities was even finished, members of the community began complaining about the memorial. In particular, Reverend T. J. Boone – a fiery Baptist minister and

prominent local community leader – expressed dismay that the memorial did not include a cross, given the importance of Christian theology to Dr. King’s message of racial tolerance. He went on to say, “It is only as Christians that we can live together as brothers. Jesus taught us to love our brother as we love ourselves. That message needs to be heard loud and clear today.” Rev. Boone and other religious leaders petitioned to have a cross placed at the Memorial site.

After much debate, and over the objections of the Columbiana Civil Liberties Union (CCLU), state officials granted the request and the Martin Luther King Memorial Committee proceeded to construct a large thirty foot high white cross directly behind the statute. On the crossbar of the cross, were the Latin characters for “Jesus.” While construction of the cross was ongoing, the CCLU filed suit seeking an injunction to halt construction on the grounds that the installation of the cross constituted an establishment of religion.

The district court denied the motion for injunction relief and in a trial on the merits found for the state of Columbiana. The Court of Appeals for the Thirteenth Circuit, in a divided vote, affirmed the lower court’s ruling. Chief Justice Wallace Maddox, writing the majority opinion, stated simply: “ The First Amendment does not require the total absence of religion from the public square.”

The CCLU petitioned the Supreme Court for review. The petition for certiorari has been granted to review the following question:

Did construction of the cross within Ivory Hill State Park constitute an unconstitutional establishment of religion?