

Erasing or Embracing History? Jacksonville's Fight Over Confederate Monuments

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For decades, Confederate monuments across the South have served as a reminder of a flashpoint of the racial and social division in American history; has the time come for them to be forgotten? In 1861, ten southern states followed South Carolina when it seceded from the United States to establish the Confederacy.¹ Upon losing the Civil War in 1865, these states were brought back into the Union under very stringent rules, including a ten-year military occupation and forced ratification of the Thirteenth, Fourteenth, and Fifteenth Amendments.² The eleven southern states joined the remaining twenty-three northern states, remaking the United States in a process known as Reconstruction. The Reconstruction era (approximately 1863–1877) was an arduous time that exposed deep racial divisions and conflicting views on how to protect the rights of formerly enslaved people. In David W. Blight's *Race and Reunion: The Civil War in American Memory*, he examines how the North's concessions during Reconstruction allowed the South to preserve so-called memories and artifacts of Confederate figures.³ Blight discusses how the North's prioritization of reconciliation enabled the South to maintain its own narrative of the Civil War, leading to the establishment of monuments and the preservation of artifacts honoring Confederate leaders.⁴ Statues were erected, museums were built, and parks were renamed to honor those who fought for the Confederacy. As civil rights progress and societal values shift, Confederate monuments face increasing scrutiny, with growing calls for their removal from public spaces. In the city of Jacksonville, Florida, there is a monument honoring the Women of

¹ James McPherson, *Battle Cry of Freedom: The Civil War Era* 274 (1988).

² *Id.* at 860.

³ David Blight, *Race and Reunion: The Civil War in American Memory* (2001).

⁴ *Id.*

the Southern Confederacy situated just north of its City Hall that has caused contention between the city's government and its citizens for many years.⁵ Many citizens have called for the statue's removal for quite some time while others have fought against it, arguing that it is a part of the city's extensive southern history.⁶ As reported by the Associated Press, in May of 2023, Mayor Donna Deegan removed the statue with the help of a private donation and the services of a local company.⁷ This decision, while celebrated by some and criticized by others, raises a question that echoes across the Southern United States: Who truly has the authority to decide the fate of these cultural landmarks? Should cities like Jacksonville have the autonomy to remove monuments that no longer reflect the values of their communities, or do these symbols deserve protection under the guise of preserving history? Local governments like Jacksonville should use their authority to remove Confederate monuments because they represent outdated ideals, disrupt public safety, and conflict with the principle that government speech should align with current public values.

Thirty years ago, the Supreme Court of the United States (SCOTUS) upheld a ruling under the First Amendment that established the "Government Speech Doctrine."⁸ Despite limits on government regulation of private speech, the government is not required to act neutral when expressing its own opinion.⁹ Government speech can exist in many mediums, including social media, political rallies, and even statues. Therefore, local, state, and federal governments have the authority to display what they believe to be their current sentiments and the sentiments of the

⁵ Mark Bauerlein, *Jacksonville's Confederate Monument Likely to Remain in Springfield Park*, Fla. Times-Union (Nov. 2021), [jacksonville.com/story/news/local/2021/11/02/jacksonville-florida-confederate-monument-likely-remain-springfield-park/6247380001](https://www.jacksonville.com/story/news/local/2021/11/02/jacksonville-florida-confederate-monument-likely-remain-springfield-park/6247380001).

⁶ *Id.*

⁷ Associated Press, *Jacksonville, Florida, Mayor Has Confederate Monument Removed After Years of Controversy* (Dec. 2023), apnews.com/article/confederate-monuments-jacksonville-florida-eb85c70216603e180db5df851f0f852c.

⁸ *Rust v. Sullivan*, 500 U.S. 173 (1991). This case extended the protections of U.S. Const. amend. I. to include government speech.

⁹ Legal Info. Inst., *Government Speech*, Cornell L. Sch. (Jan. 2023), [law.cornell.edu/wex/government_speech](https://www.law.cornell.edu/wex/government_speech).

local community. Jacksonville exercised this right and removed a government statue they felt no longer aligned with the government's beliefs and those of the local community. In *Pleasant Grove City v. Summum* (2009),¹⁰ the Supreme Court ruled that permanent monuments in public spaces represent government speech, and if a government chooses so, they are not required to keep it.¹¹ In this specific case, the city of Pleasant Grove had a large recreation of the Christian Ten Commandments in a town park.¹² A local religious group wanted to place their own religious monument, citing the city's as precedent.¹³ The city denied their request, the group sued and consequently lost 9–0 in the Supreme Court, thus establishing that the government has the discretion to place and remove monuments without restriction from the First Amendment.¹⁴ This ruling raises a critical question: If religious and historical symbols can be restricted, where is the line between protected speech and public controversy? In 2015, the group Sons of Confederate Veterans (SCV) petitioned the Texas Department of Motor Vehicles (DMV) to create a specialty license plate that included the design of the Confederate Flag.¹⁵ The Texas DMV rejected it and the SCV subsequently sued, and the case reached the Supreme Court.¹⁶ SCOTUS ruled 5–4 in favor of Texas, stating that the Texas DMV had jurisdiction to select and reject any materials they deemed unfit to be on government property.¹⁷ Although neither case directly addressed Confederate monuments, they reinforced the principle that local and state governments have control over the speech conveyed on public property. Just as Pleasant Grove City was not required to accept a new monument, and Texas could reject a controversial license plate,

¹⁰ *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Aman Batheja, *Supreme Court: Texas Can Ban Confederate License Plates*, Tex. Trib. (June 2015), texastribune.org/2015/06/18/supreme-court-rules-texas-confederate-license-plat.

¹⁶ *Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200 (2015).

¹⁷ *Id.*

Jacksonville had the authority to determine that Confederate statues no longer aligned with its public values. These two cases were vital in establishing legal precedent in the removal of Confederate monuments and why, in particular, Jacksonville was justified in removing theirs.

In recent times, Confederate monuments have become hot-button issues as a result of social justice and equality movements. These figures are often situated in public parks, making them an easy gathering place for protestors. In particular, one city that sees periodic increased tensions as a result of problematic monuments is Charlottesville, Virginia. In August of 2017, the Unite the Right Rally was held in Charlottesville as a gathering for white nationalist and neo-Nazi groups to express their frustration over the removal of a statue of General Robert E. Lee from a local park.¹⁸ Counter-protestors arrived at the rally and the situation exploded into violence, resulting in the death of an innocent woman.¹⁹ The proposed removal of a Confederate statue was at the crux of the conflict.²⁰ Three years later, Charlottesville began proceedings to remove the statue from its park, only to be met with a legal stonewall. The state of Virginia had a Monument Protection Law, which prohibited the removal of war memorials.²¹ Charlottesville appealed to the Virginia State Supreme Court, which ruled that since the law was passed in 1997, it could not retroactively apply to monuments that were made before its time, as the Lee statue was constructed in 1923.²² Additionally, since the statues were on public property and maintained using public funds, the local government had every right to remove them. This ruling helped set a precedent across the country that laws that have been used in the past to protect these monuments can be amended or found inapplicable and that the local authority trumps any

¹⁸ Meghan Keneally, *What to Know About the Violent Charlottesville Protests and Anniversary Rallies*, ABC News (Aug. 2018), abcnews.go.com/US/happen-charlottesville-protest-anniversary-weekend/story?id=57107500.

¹⁹ Andrew Katz, *Clashes over a Show of White Nationalism in Charlottesville Turn Deadly*, Time, time.com/charlottesville-white-nationalist-rally-clashes.

²⁰ *Id.*

²¹ Va. Code Ann. § 15.2–1812 (1997).

²² *City of Charlottesville v. Payne*, 856 S.E.2d 203 (Va. 2021).

citizen's wishes. The Charlottesville ruling not only permitted the removal of Confederate monuments but also prioritized public safety. As seen in the summer of 2020 with the Black Lives Matter movement, which ignited after the unjust arrest and murder of George Floyd,²³ many of these protests and counter-protests would take place at the location of these monuments, oftentimes leading to violent altercations between two groups. Removing Confederate statues would not only more closely align with current public sentiments, but their subtraction also makes for safer communities.

Today, those who argue against the monument's removals mainly do so from a place of preserving history. Critics say that removing the statues and whatever memories remain of this period effectively erases part of American history. Civil War historian James I. Robertson Jr. described the movement to dismantle Confederate monuments as an "age of idiocy," suggesting that such actions are motivated by groups intent on "tearing apart unity that generations of Americans have painfully constructed."²⁴ However unseemly and unpleasant as it may be, the statues still commemorate the family and ancestors of millions across the Southern United States. However, historical data shows that many of these monuments were not erected immediately after the Civil War, but were instead created decades later as tools of racial intimidation. Over seven hundred Confederate monuments were erected between 1890 and 1950, a period dominated by segregationist policies, demonstrating that these statues were not neutral historical artifacts, but political statements of racial hierarchy.²⁵ A neutral solution that many states are adopting involves placing these historical relics in museums, which emphasizes how these public

²³ Roudabeh Kishi & Sam Jones, *Demonstrations and Political Violence in America: New Data for Summer 2020*, Armed Conflict Location & Event Data (Sept. 2020), acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020.

²⁴ Am. Hist. TV, *The Civil War: Debate Over Confederate Monuments* (Sept. 2020), [c-span.org/program/the-civil-war/debate-over-confederate-monuments/507877](https://www.c-span.org/program/the-civil-war/debate-over-confederate-monuments/507877). The conference was hosted by the Shenandoah Valley Battlefields Foundation and featured Virginia Tech History Professor Emeritus James Robertson.

²⁵ S. Poverty L. Ctr., *Whose Heritage? Public Symbols of the Confederacy* (Feb. 2019), splcenter.org/resources/reports/whose-heritage-public-symbols-confederacy-3.

spaces and monuments are not the only way millions of Americans can become educated on Civil War and Antebellum history. Ultimately, a place in Jacksonville where the confederate statue in question could eventually be moved to is the local Museum of Science and History (MOSH). The MOSH is a constructive place where many can go and learn about our country's history without it being maintained by the government or putting the public in harm's way.

In essence, the debate between those who favor keeping the monuments displayed in public spaces and the upholding of modern societal values often becomes misconstrued and any positive discussions grind to a screeching halt with public divisiveness. On one side, many around the country have made it clear removing Confederate monuments is not about erasing history, but about allowing communities to choose how they want to represent themselves. As seen in the *Pleasant Grove* and SCV cases, these local governments have been granted authority by SCOTUS to make decisions that reflect who they are as a community. This precedent combined with the safety risks posed by many of these monuments, as seen in the Charlottesville case, has heightened tensions in the discussion of their removal. Taking away these controversial figures from public places aids in creating a safer community for citizens. While there will always be a side arguing to preserve these monuments, it is imperative that there is a recognition that these statues and figures are not the only way to honor Southern history. Jacksonville's removal of its Confederate monument aligns with legal precedent, affirming that cities have the authority to remove Confederate symbols and reshape public spaces to reflect their evolving values. History will not dissipate into thin air, so the opportunity must be taken to properly educate and not glorify the divisive past our nation has. History should be studied, not enshrined in stone; no nation moves forward while memorializing its own defeats.