

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

MONUMENTAL TASK

CIVIL ACTION

COMMITTEE, INC., et al.

NO: 15-6905

Versus

ANTHONY R. FOXX, ET AL.

SECTION: "J" (3)

**AMICUS BRIEF OF "SAVE NOLA HERITAGE USING MONUMENTS TO
END MODERN DAY SLAVERY" IN SUPPORT OF
COMPLIANT-IN-INTERVENTION BY CHARLES LINCOLN**

Introduction and Statement of Interest of Amicus Curiae

On May 22, 2017 Charles Edward Lincoln III PhD. filed a Motion for Leave to Intervene in the New Orleans' Monument Removal case. This Amicus Brief is support of Dr. Lincoln's filing is from Charles Marsala who would be qualified as a knowledgeable or expert witness in the case.

Of particular interest is Dr. Lincoln's concept that New Orleans could qualify as a World Heritage Site and removing the four monuments is analogous to removing the vital organs needed to qualify.

Dr. Lincoln mentions the Louisiana Constitution and need to have an Economic Impact Report done before the Monuments are removed.

QUALIFICAIONS AS EXPERT WITNESS

In 1978, Marsala graduated from Jesuit High School of New Orleans. During the 1977-1978 year Marsala served as Student Council President. Also active were Mitch Landrieu and James Federoff, who were close friends.

Following graduation Marsala and Federoff attended Tulane University and were roommates during 1978.¹

After graduation Marsala accepted a position in Long Beach, CA and eventually relocated to Northern California. In 1999, Marsala was appointed to the Atherton Arts Committee, Park and Recreation Commission, and Waste Reduction Committee. From 2002-2010, Marsala was on the Atherton City Council, serving as Vice-Mayor in 2005 and Mayor in 2006. Atherton is located in Silicon Valley near Stanford University.

In 2012, Marsala returned to Louisiana and ran for U.S. Senate in 2016. Part of his platform was creating Federal Guidelines for Cities to resolve Monument Issues.

¹ Federoff was the son of Judge Gerald Federoff and attended Tulane on a Mayor's Scholarship awarded by Mayor Moon Landrieu. The Mayor of New Orleans gives five scholarships per year to Tulane University. This arrangement started in the 1880s when Tulane sought to maintain its non-profit status and the State Legislature requested Scholarships in return. Marsala is aware of another Tulane Scholarship offered to the grandson of a New Orleans Judge in the Jesuit Class of 1978. Moon Landrieu awarded 40 scholarships and has refused to disclose who received them. He mentions that those connected to judges as having been a preference. Mitch Landrieu has awarded over 30 scholarships.

Marsala has made over 50 videos on Louisiana Culture and Individuals, this includes films on Beauregard, Lee, Davis, and the New Orleans Democratic Club Members who organized the Battle of Liberty on September 14, 1874.

Marsala believes New Orleans would have benefitted from a policy similar to the City of St. Louis has an ordinance to return monuments to the original donors.

In January, 2016 Marsala spoke to the New Orleans City Council expressing an interest in acquiring the PGT Beauregard Monument on behalf of the Italian Community, as Beauregard is of Italian decent on his maternal side.

Marsala expressed meeting policy improvements and procedural errors he thought the City Council made during the Monument Proceedings. Additional research indicated that the council violated or contradicted Section 84 of the City Charter² during its proceedings and did not take Ordinance Sec. 146-721. - Dedication of ground into consideration.³

² Sec. ~~84~~-21. - Purpose of article.

The purpose of this article is to promote historic districts and landmarks for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, and areas of historic interest or importance within the city; to safeguard the heritage of the city by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political, and architectural history; to preserve and enhance the environmental quality of neighborhoods; to strengthen the city's economic base by the stimulation of the tourist industry; to establish and improve property values; to foster economic development; and to manage growth.

³Sec 146-721 The neutral ground of Canal Boulevard, between the limits of City Park Avenue and Robert E. Lee Boulevard, is hereby dedicated as a memorial parkway to be known as an Outdoor Hall of Fame to perpetuate the memory of accomplishments of those of our citizens who have been outstanding in social, civic or economic welfare.

Monuments to Lee, Beauregard, and Davis would all qualify under 146-721 to be on Canal Blvd. As all spent time in New Orleans and contributed to the social, economic, or civic welfare.

Argument

The facts of the main argument presented by the case before this court:

1. Are the monuments a vital part of the New Orleans Environment and would they contribute to making New Orleans a World Heritage Site. Does the Louisiana Constitution provide protection to citizens for the economic and cultural lost due to removal?
2. Decisions by this court in awarding Summary Judgement were based on statements by Mayor's 2015 plan which was not followed by the Mayor. The Mayor has used over \$1 Million in Public Funds for the reported \$2.1 million spent and only removed the statues, the pedestals remain. A Monument would be both parts. The Mayor offered to this court the *monuments* could be removed for \$170,000.00 in donated funds.
3. City workers with no experience were used, contrary to what was presented to the court. These workers, who were firefighters may have been paid by the contractor as an outside business activity while using city owned

equipment. The monuments did suffer some damage in removal, for instance the Granite Plaque on Liberty with the names of the police officers was shattered.

4. Concern has been generated on the lack of Transparency on the relocation of the monuments. On July 6th, 2017 WWL-TV⁴ reported discovery of an email from Ryan Berni, Landrieu's chief aide for external affairs on Dec. 11, 2015, six days before the City Council was scheduled to declare the four monuments nuisances and officially approve their removal. The email stated: "A few months back, Mayor Landrieu spoke to Ken Burns about writing something for a New Orleans newspaper on our efforts to move Confederate monuments from prominent public spaces *to museums or a park where they can be put into proper context*," Berni asked if Burns could write something backing a City Council vote in favor of removal.
5. Bernie sent over a list of talking points for Burns to consider, mostly focused on the idea that the monuments represented "the Cult of the Lost Cause."

⁴ Exhibit Pages

6. Many favoring Preserving the Monuments per Section 84 of the City Charter take exception to Ryan Berni's email. What does the Mayor mean by museum of *proper context*? Is this Museum related to activities of any of the anonymous donors? Is this a Civil Rights Museum or the Slave Ship Museum proposed for New Orleans? In 2017 the City Council approved a \$170 Million Slave Ship Museum. Who owns the land of the museum and who owns the businesses and nearby lands of the possible new location for the monuments? Why not turn the Statues over to 52 acre Davis museum in Mississippi named Beauvoir owned by the Sons of the Confederacy? Do the Statues have to be used in "fuller context" which could be vilified as the Mayor positions?

Adding to the concerns of Preservationists was the January 2017 conviction of the Mayor of Harrisburg, PA for stealing \$31 Million in city artifacts for a private Wild West Museum. After 18 months the City of New Orleans has not provided any information on the relocation of the Statues.

For many the issue is whether the City has created a policy that allows for the Mayor and future Mayors to transfer millions in City Art to Private

Individuals via the recent Nuisance Ordinance and a restrictive bid process.

7. Ryan Berni's December 2015 email stated The City of New Orleans' position was the monuments represented "The Cult of the Lost Cause." Research in 2016 and 2017 contradicts this statement. During 2016 and 2017 residents reached out to the Plaintiffs in the 2015 lawsuit to provide books, files, and documents showing the reasons groups formed to raise the funds for the monuments were not the "Cult of the Lost Cause."

Most often seen in the writings is a desire by orphans and widows to honor their fallen fathers and husbands. Fund raising was often done by the United Daughters of the Confederacy ("UDC"), these same women created Memorial Day in 1866 when they organized to decorate the graves of soldiers for both the Union and Confederacy. Those women are now the Great Grandmothers of over 25% of the residents of Louisiana and their children feel the Mayor has insulted the Great Grandmothers and Great Great Grandfathers.

Several other monuments in New Orleans which honor those who died in the War for Southern Independence still remain, those monuments were erected by the UDC as well. What is the justification to removing valuable bronze statues to the full lives of men and leaving less valuable markers specific to the Confederacy?

The Father Ryan Monument⁵ two blocks from the Jefferson Davis Monument was erected in 1949, by the UDC. Confederate Priest, Father Ryan wrote a poem right after the war advising the Confederate Flag be furled and stored and that the troops return to their previous lives.

One does not see the efforts of the UDC to support “the Cult of the Lost Cause.”

Beauregard Monument Association

Minutes of the Beauregard Monument Association⁶ show that it was a group that raised funds in small increments of \$1.00 to \$5.00 to erect his monument. The group’s first meeting was the night Beauregard passed away. Beauregard was an Equal Right’s activist who in 1873 chanted: “Equal Rights! One Flag! One Country! One People!” Beauregard’s Monument was located at the end of the Streetcar tracks, Beauregard supervised rebuilding the streetcars after the war. Thus a proper place for his monument.

Books on Lee Circle⁷, show similar motives. Over 12,000 men from Louisiana fought under Robert E. Lee, less than 400 returned. Lee 1856 quote to his wife: “Slavery as an institution is a moral and political evil” is unparalleled. His statue is next to the WWII Museum. WWII General and US President Eisenhower hung a

⁵ Exhibit Pages

⁶ Exhibit Pages

⁷ Exhibit Pages

portrait of Lee in the Oval Office and attributing WWII tactics to studying Lee.

Eisenhower wrote about the qualities of Lee as a man.⁸

Jefferson Davis, as Secretary of War for the United States organized the second trans-continental railroad to from Los Angeles to New Orleans in 1854. This brought economic prosperity to New Orleans, Davis' lobbying for New Orleans won over a railroad to Chicago. In 1862, Jefferson Davis adopted an abused black child named Jim Limber. In the 1850s he began programs to educate slaves and train them for management positions on plantations. A former slave, Benjamin Montgomery, became the first elected official of Mississippi and won best cotton at the international exposition. Davis Monument was located on Jeff Davis Blvs with numerous other Southern War for Independence Monuments.

The Battle of Liberty Monument has been misrepresented. On page 2 of the Order and Reason, Doc 155 filed April 24, 2017 this court wrote:

"...commemorating an 1874 battle between the White League and the City of New Orleans' first integrated police force."

Per the Book on the Battle of Liberty.⁹ New Orleans did not have a Police Force in 1874, the Republican Governor had disbanded the New Orleans Police Force and

⁸ Exhibit Pages

⁹ Exhibit Pages

formed a Regional Police Force known as the Metropolitan Police Force covering Jefferson, St. Bernard, and Orleans Parishes.

The election of 1872 had so much voter fraud, Congress refused to count Louisiana's electoral votes and the Governor's race went contested for years.

On September 12, 1874 the Republican Governor ordered the Police to confiscate a shipment of guns on the SS Mississippi headed to Democratic Candidate for New Orleans Mayor, Charles Leeds' Foundry.

On September 13, 1874 a newly formed committee of the New Orleans Democratic Club placed an ad in the paper asking residents to turn out for a rally on the 14th at noon at Canal and the River. Around 3pm the police came down Decatur Street and opened fire on the crowd with a Gatling Gun and two canons. The Citizens went along the river and returned fire on flank of the police. Only whites were killed on both sides, totaling twenty-four.

This was a battle of political parties on Voter Suppression, Gun Confiscation, and Political Corruption.

In 1875, Two US Congressional Committees reviewed the Battle of Liberty and cleared the members of the New Orleans Democratic Club / White League Committee of any crimes against the Government or individuals.

Was it justified to remove the memorials to any of these men? Or was the purpose for the City to secure quality art for new Slavery/ Civil Rights museum dedicated to a “Fuller Context?”

When reviewing the monuments, the books and minutes reflect that those behind the initial idea to erect a monument had just cause. However in the 10-20 years before completion, attitudes of Mayors may have changed.

Mayor Walmsley placed in 1932 the White Supremacist plaque on the Battle of Liberty Monument. He did this as he was campaigning for President of the US Mayors’ Conference.

From 1915-1935 the KKK had a large influence in the Democratic Party, starting with Woodrow Wilson showing the KKK film, “Birth of a Nation” in the White House. In 1924, following the Democratic National Convention, the KKK had a “KlanBake” for 20,000 in New Jersey. Walmsley was likely under this influence when he added the plaque, which was removed in the 1990s.

City Statements and Contradictions

8. The obvious irony was that while the City was fighting to remove three statues to the lives of progressive men. It is expanding the Jean Lafitte

Greenway. Jean Lafitte was a pirate who stole slaves in the Caribbean, smuggled them into New Orleans and sold them. As the Davis and Beauregard monuments were removed, people stood on the Jean Lafitte Greenway and cheered.

9. In 2001, New Orleans Airport was renamed. The name of Aviation pioneer Moisant who was the first to build a metal plane, first to fly a passenger, and first to an international flight was removed. He was classified as a “daredevil.” Moisant died in a plane crash in Kenner in a field known as the Moisant Stock Yards or MSY. Was his name removed from the airport in favor of Louis Armstrong due to Confederate reasons?
10. One result of the removal of the priceless statues will be to create a space for Mayor Landrieu’s administration to erect a public structure with a plaque erected on the site by Mayor Landrieu?
11. The Davis Monument was removed on the Anniversary of the day Davis was captured and on that night, Mayor Landrieu hosted a fundraiser for his PAC.¹⁰

¹⁰ Exhibit Pages

Federal Protection of Monuments

12. Lee, Davis, and Beauregard all served the United States in the Mexican-American War. In the 1950s, Congress passed a law protecting monuments to US Military Veteran and included those that fought on the Southern in the War for Southern Independence.

Across the street from the Davis Monument is a monument to Captain Toby Hart. On the banks of the Mississippi River in Vicksburg is a small Federal park known as “Louisiana Circle” Captain Hart is also remembered there. In New Orleans the markers reads that his son put up the marker to honor his dad, not as part of “The Cult of the Lost Cause.” What will happen to the remaining markers to Confederate Soldiers in New Orleans? More so the ordinance is not limited to those that fought between 1861-1854.

13. During events to honor the deceased the statues represented, the Mayor’s office often misrepresented the actions of the groups. The Anti-FA protesters were barely mentioned in the press. Interestingly on July 6, 2017 Haley Saucier, 26, of Ponchatoula was arrested at Senator Cassidy’s office. Ms. Saucier is a person of interest during the May 1st, Anti-FA

Marxism assault on Preservationists at Jefferson Davis. A women in a wheel chair was pepper sprayed by someone.¹¹

Other Anti-Fa protestors reported they were paid \$35.00 per hour to carry banners with Marxism and Rothchild Crest and intimidate Preservationists.¹² Did the City not discover this? What is the reason to keep the information private? Most of the Preservationists felt the Police were ordered not to arrest the Anti-FA protestors as they intimidated the Preservationist at Jefferson Davis Monument. At the Beauregard Monument a 9 year old girl and descendant of Beauregard was shot with paint ball gun as were other Preservationists. Mayor Landrieu spent over \$700,000.00 gathering information on those involved with a firm known as Trident. Who are there now files on? The files are classified as secret and dealing with homeland security, but done by a private firm.

14.City Misrepresented reason for the War for Southern Independence

The speeches by Mayor Landrieu to the nation have been that the war was to allow slavery to continue. That is wrong, the war had many reasons and one was

¹¹ Exhibit Pages

¹² Exhibit Pages

Tariffs. It was the 1860 passage of the Morrell Tariff in the House of Representatives that was part of a Tariff program started in 1816 which punished the South to benefit the North. Have we not forgotten the Tariff of Abominations? Charles Dickens writing from England at the time observed the war was about economics.

The Corwin Amendment of March 1861 passed by the North guaranteed Southern States the right to keep slavery in an attempt to avert war. The South declined the offer. Large Tariffs for 30 years had built up frustration, similar to the Boston Tea Tax.

While ending slavery was obviously an objective of the Republican Party and a part of the Democratic Party, the means to end it and avoid a Jim Crow era had not been resolved in the South.

If one researches the past, after the War the North wrote the text books and called it the Civil War, when the South was fighting for Independence and not control of the North, this was not a Civil War.

Monuments, Landmarks, and Markers serve to educate and honor the memory. As Charles Lincoln points out, New Orleans is on par with Machu Picchu and other global places as a World Heritage Site. However, the Mayor and City Council have

removed the vital organs necessary for approval. There is an economic impact, which should be reported.

15. Richard Marksbury, Andrew Jackson, Mayor Morrison, and Jean Lafitte

Richard Marksbury PhD. Filed a lawsuit on July 7, 2016 asserting that Andrew Jackson should be reviewed under the same guidelines as the four monuments the Mayor proposed.

The City refused to hear Marksbury plea and has refused to consider any of the other monuments proposed by residents such as the World War I memorial.

For this author, honoring Jean Lafitte¹³ has always been an issue. How can the City of New Orleans name a Greenway after LaFitte and continue to expand it knowing Lafitte's role in slavery from 1808-1815?

Another Monument, offensive to this author is the one to Mayor Chep Morrison. In 1954 the Supreme Court ordered desegregation, but Mayor Morrison refused until 1960 and the Ruby Bridges action. Mayor Morrison boasted about being sued by the NAACP. Yet, the city plans to spend \$5,000,000 upgrading the plaza where his monument resides.

¹³ Exhibit Pages

The Council does not provide for Equal Assess to Citizens to express their monument nuisances.

16. Summary Judgment Awarded in original case

Summary Judgment should be awarded when items of fact are in dispute. Now with the discovery that was not available in December 2015, it is clear items are in dispute. The City used Taxpayer dollars against what it announced in 2015, stored monuments at a Homeland Security building near the Superdome and now in a wooden shed in New Orleans East, damaged monuments in removal, and used inexperienced staff to remove the monuments. All contrary to what was reported to this court in 2015 and 2016.

One person sent me a detailed file on how the city acquired the crane for the firemen to use to remove Liberty Monument.¹⁴

¹⁴ Exhibit pages

17.Modern Day Slavery / Juvenile Sex Trafficking

Throughout all the energy to remove four memorials to unturned soldiers, the city has missed opportunities.

1. Located near the WWII Museum is Robert E. Lee whose land in Arlington is became the National Cemetery. Few know the story of how this happened and perhaps when the Mayor asked what do you tell the fifth grader about Robert E Lee the answer could be he turned his land over to the United States to honor those who gave their life fighting for your freedom to attend school. Lee's son won a Supreme Court Case to have the land returned to the family, then sold it at a fair price to the US.
2. One could go on to say that just as the tomb of the unknown soldier is at Arlington, the tomb of the unreturned soldier is at Lee Circle. Lee Circle would be re-purposed to honor all those that did not return from home from war.

One quadrant for the Revolutionary War and War of 1812, one for the Mexican-American, Civil War, and Spanish-American War, one for WWI and WWII, and one for Korea, Vietnam, and Gulf Wars.

This would expand the Memorial Day Celebration at the WWII Museum and connect it to the Celebration at Lee's Arlington Estate. Recognizing that the

United Daughters of the Confederacy created the event in 1865 as Decoration Day.

The letter President Eisenhower wrote regarding the Character of Lee should be on display at the WWII Museum and shown to the fifth grader, along with Lee's quote on Slavery, and how the LSU Tigers received their name. This should satisfy the fifth grader was to how Robert E. Lee has impacted her life in a positive way.

Lee's Quote: "Slavery is a Moral and Political Evil."

My organization has made films on Modern Day Slavery and Sex Trafficking. To see the facility and interact with a 12-year old who was rescued from the French Quarter as a sex slave can only motivate one to seek solutions and awareness.

Finally on May 31st, the City Council created a special committee on Youth Services and Empowerment with an agenda item: "Rise in Juvenile Sex Trafficking." When I spoke to the Government Affairs Committee and asked them to move this to the full council agenda there was no response, rather almost denial that the problem and committee existed.¹⁵

Thus the question is, has the Mayor/ City Council in their desire to approve a Slave Ship Museum and move millions in free public art to that museum,

¹⁵ Exhibit Pages

neglected those in Modern Day Slavery? Could they utilize the monuments they are removing to help bring awareness to Modern Day Slavery victims?

Imagine the impact of placing Lee's quote on a plaque near the monument and providing information on Modern Day Slavery or "Equal Rights!" on PGT Beauregard.

Are monuments and pathways to Slave Trader Jean Lafitte and Segregationist Mayor Morrison more of a nuisance than Beauregard?

Is equal treatment and protection given by the city is allowing others to express what they consider greater nuisances?



Charles Eugene Marsala

Brief in Amicus

141 Robert E. Lee Blvd. #126

New Orleans, La 70124

cemarsala@yahoo.com

(650) 333-8212

7/7/2017

CERTIFICATE OF SERVICE

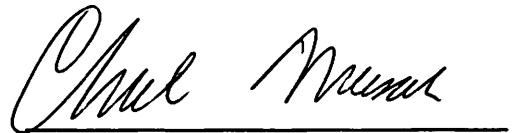
I hereby certify that I have served a copy of this Brief to the parties involved in the case and those seeking intervention.

City of New Orleans

MTC

Charles Lincoln

7/7/2017

A handwritten signature in cursive script, reading "Charles E. Marsala", written over a horizontal line.

Charles E. Marsala

141 Robert E. Lee Blvd #126
New Orleans, LA 70124
Cemarsala@yahoo.com
(504) 333-8212