

February 21, 2023

VADM Joanna Nunan, USCG
Superintendent
United States Merchant Marine Academy
300 Steamboat Road
Kings Point, NY 11024

Dear Vice Admiral Nunan,

As Ranking Member of the U.S. Senate Committee on Commerce, Science, and Transportation, I am gravely concerned by your decision to cover and move the painting “Christ on the Water,” also known as “Jesus and Lifeboat,” on display at the U.S. Merchant Marine Academy, Kings Point, New York, which honors mariners lost at sea during World War II.

Since at least 1947, the United States Merchant Marine Academy has displayed a painting on the wall of what is now the Elliot See Conference Room in Wiley Hall on the Academy’s grounds in Kings Point, New York.¹ At the time the painting was placed on the wall, the room “served as the Academy’s interfaith chapel” and did so from 1942 to 1961.² As described by the Academy, the painting “depicts an image of Jesus and merchant seamen adrift in a lifeboat, presumably after being torpedoed in the Indian Ocean during World War II.”³ It was “painted in 1944 by noted marine artist Lt. Hunter Wood, USMS, to hang in the chapel built at the USMMA Basic School in San Mateo, California.”⁴ When “the San Mateo campus closed in 1947, the painting came to the Academy, and was installed in its current location.”⁵ It now is a “heritage asset” in the custody of the American Merchant Marine Museum⁶ located on the Academy’s grounds.⁷ Despite earlier reports that the painting was too large to physically move, recent media reports now state you have, in fact, decided to “eventually” move the painting to the USMMA chapel and will discontinue use of the Elliot See Conference Room for official functions in the interim.⁸

Despite the Academy’s history and tradition of displaying the painting—one that undoubtedly has provided comfort and solace to thousands of merchant mariners through the years—you recently

¹ Statement on Painting Entitled “Christ on the Water” at the United States Merchant Marine Academy, <https://www.usmma.edu/about/communications/statement-painting-entitled-christ-water-united-states-merchant-marine-academy>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ American Merchant Marine Museum, <https://www.usmma.edu/museum>.

⁸ Mark A. Kellner, *Merchant Marine Academy bows to pressure, will move ‘Christ on the Water’ painting*, THE WASHINGTON TIMES, Feb. 21, 2023, <https://www.washingtontimes.com/news/2023/feb/20/merchant-marine-academy-bows-pressure-will-move-ch/>

chose to first cover it with a curtain, and now remove it from the Elliot See Conference Room altogether, in response to a single complaint. That complaint came in the form of an email from Michael “Mikey” Weinstein, the president of an organization known as the Military Religious Freedom Foundation.⁹ The email alleged the Academy’s display of “Christ on the Water” violates “the salient time, place, and manner requirements of American Constitutional law” and demanded that you remove it. This allegation’s ignorance of U.S. Constitutional law is surpassed only by the swiftness with which you capitulated to Mr. Weinstein’s demand, apparently within three hours of receiving the complaint.¹⁰

I am deeply concerned by your flawed understanding of the First Amendment to our Constitution. Time, place and manner restrictions such as those Mr. Weinstein alleges are safeguards against government over-regulation of *private* speech. But they are wholly irrelevant here because the painting is a *government* display, not a private one. The allegation that the painting somehow violates time, place and manner restrictions is an objective absurdity.

The relevant constitutional question is whether the Academy’s display of the painting meets the requirements of the Establishment Clause of the First Amendment. As a longstanding display that is consistent with the history and tradition of the United States and its Maritime Service, it clearly does. Under the Supreme Court’s standard for longstanding government displays, the painting is perfectly in keeping with the Establishment Clause. Your decision to move it, and to discontinue use of the conference room it presently is located in, is regrettable and suggests you believe a painting that tens of thousands of Midshipmen, faculty, staff, and visitors have viewed for more than half a century is now suddenly unconstitutional.

Your response to Mr. Weinstein’s email to the Academy is not only unsupported by the law, but is manifestly unnecessary. Moreover, it raises the question of whether you, like Mr. Weinstein, are overtly hostile to religion. Mr. Weinstein described the painting to you as “a disastrous display of Jesus supremacy” and claimed that its placement caused him and others to be “viciously oppressed.”¹¹ Such obvious hostility towards faith has no place in America, let alone in one of our hallowed service academies. And frankly, to the degree you share such sentiment, it raises serious questions about your continued fitness to lead an institution dedicated to producing America’s future Maritime Service members.

It has come to my attention that Academy midshipmen, alumni, and parents who are understandably hurt and outraged by your decision to cover the painting have generated a petition calling for the curtain to be removed, and that the petition has now reached more than 4,500 signatures and continues to grow.

As you know, the U.S. Merchant Marine Academy was dedicated in 1943. Just four years later this painting was placed on that wall and has been there ever since. Out of respect for its own history and tradition, to allay any indication of an unconstitutional hostility to religion, and as an example of wisdom and fortitude in the face of adversity for the future leaders of the U.S. Maritime

⁹ Chris Rodda, *U.S. Merchant Marine Academy to cover ginormous Jesus painting in administrative building*, THE DAILY KOS, Jan. 11, 2023, <https://www.dailykos.com/stories/2023/1/11/2146637/-U-S-Merchant-Marine-Academy-to-cover-ginormous-Jesus-painting-in-administrative-building>

¹⁰ *Id.*

¹¹ *Id.*

Service, the Academy should ignore this baseless complaint and keep the painting, uncovered, in place.

In light of these troubling facts, I request answers to the following questions:

1. Is the painting still covered?
2. You told Mr. Weinstein that the painting will “eventually” be moved. When will that take place?
3. Under what circumstances will Midshipmen, faculty, staff, and visitors have access to the Elliot See Conference Room?
4. In your email to Mr. Weinstein, you reference having “already identified similar concerns with this painting.” Prior to receiving Mr. Weinstein’s complaint, in the past ten years how many complaints did the Academy receive regarding the “Christ on the Water” painting from persons other than Mr. Weinstein or his organization?
 - a. How many of these complaints, if any, were from cadets?
 - b. How were these complaints, if any, resolved?
5. Had you or your staff had any contact with Mr. Weinstein or members of his organization prior to his email? If so, please provide a copy of all correspondence.
6. With whom did you consult upon receiving Mr. Weinstein’s demands, and what advice did they provide?
7. What actions will you take to ensure the U.S. Merchant Marine Academy is not an environment that is hostile to religion?

Thank you for your attention to this very important matter. I look forward to receiving your response no later than March 15, 2023.

Sincerely,



Senator Ted Cruz
Ranking Member
U.S. Senate Committee on Commerce, Science, and Transportation