Obscenity charge dropped against Michigan artist

David Walsh
29 June 2000

At a pretrial hearing Wednesday morning Pontiac, Michigan officials dropped a misdemeanor charge of displaying “obscene materials” against artist Jef Bourgeau. The charge stemmed from an exhibit organized by Bourgeau in March at a downtown Pontiac gallery. The artist had arranged a collage of more than one hundred photographs of art works depicting the naked human body, in conjunction with a symposium, “Fear No Art,” on the theme of art and censorship.

Responding to a complaint from a maintenance employee at the building in which the exhibit was held, who had alerted a local television station to the display, Pontiac police arrived at the gallery on the morning of March 4 and demanded entry. After threatening Bourgeau and others with arrest if they didn't cooperate, police officers took close-up Polaroids of some of the images. They then issued a citation. The charge carried a maximum sentence of three months in jail and a $500 fine.

At the June 28 hearing, held at the 50th District Court in Pontiac before Judge Leo Bowman, the city attorney defended the actions of the police in citing Bourgeau, claiming that the action had been taken to protect “unconsenting adults” and children from the sight of offensive materials. (The exhibit was barely visible from the street.) In an effort to bolster the argument that the display was objectionable and needed to be hidden from public view, he suggested the city was moving for dismissal because the artist had covered the front window and eventually moved the exhibit upstairs. In fact, the exhibit was never moved. After city police attempted to intimidate anyone present at the gallery, Bourgeau agreed to tape brown paper over the front window.

The city was obliged to back down on this occasion for a number of reasons. The ordinance under which Bourgeau was charged excludes from the category of the “obscene” works that have serious artistic or social merit. It took a police mentality in the first place to cite an artist who'd organized an exhibit made up of photos taken from art magazines and which included works by Rembrandt, Courbet, Rodin and Picasso, among others. Even the rawest imagery was clearly not prurient in intent or impact. The consumer in search of titillation would not have found Bourgeau's display to his or her liking.

Moreover, the context of the display—that it was being held as a visual complement to a discussion on art and censorship—made it clear that the purpose of the work was to generate discussion and thought. Bourgeau's method consists in part of deliberately exposing difficult and disturbing images and asking: what is it that makes these difficult and disturbing?

Another factor contributing to the city's backing down was Bourgeau's own willingness to defend artistic expression and democratic rights. In a climate where opportunism and conformism predominate, his stand on principles is commendable. One hopes that his example will increasingly become the norm in the art world, where careers and status have preoccupied so many for the past two decades or so.

Undoubtedly the considerable support Bourgeau gathered, in Michigan and elsewhere, also disquieted Pontiac officials. The American Civil liberties Union supported his case and provided an attorney, Mark Kriger, for the hearing. A petition and letter writing campaign, directed at Pontiac Mayor Walter Moore, had its impact as well. (*See below for excerpts from letters.*)

After the dismissal of the charge Bourgeau told reporters outside the courtroom that he was gratified by the result and intended “to continue showing contemporary art.” He noted that “any critical analysis of what's going on in art today is brushed aside.” He expressed concern that the incident would not be the last “unless the issues here are talked about,” and suggested that this sort of attempt at censorship “tends to intimidate more and more. While there should be fewer and fewer such cases, in fact there are more and more.”

Attorney Kriger stated that basic principles were involved. “I'm gratified,” he observed, “that the city recognizes it has to abide by the first amendment.... It's critically important that an artist can express himself without fear of prosecution.

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It chills everyone's First Amendment rights. They [Pontiac officials] realized this was First Amendment protected material. The Supreme Court ruled that the fact that material might offend children doesn't make it obscene. The test is whether it has serious artistic and political value—particularly in this case in the context of the symposium on censorship. The fact they gave him a ticket showed that there were serious issues. It was an attempt at censorship."

Bourgeau noted that the incident had "no chilling effect on me. I'm relieved, but it's not over."

Bourgeau gave the following statement to the WSWS:

> "PONTIAC v. JEF BOURGEAU
>
> Presenting obscene materials and performances
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> This dismissal was a win for the arts and their expression. Of that, there is no doubt. The fact that it was dismissed summarily, however, denies a direct forum to more specific issues, most notably that of mounting a real defense for current art against the easy tag of "controversial" or "shocking" or "worthless."
>
> These legal attempts at controlling the arts invariably lose in the courts, but, as they occur more and more frequently, also tend to erode the popular perception of art's value and what should be permissible for public viewing.
>
> Vocal and visible support of all the arts is imperative to their survival. So, I would like to thank all those who helped in this case. Those who sent letters directly to Mayor Moore of Pontiac. I'm sure their impact was felt most deeply. And, to those who took the time to sign the petition. Thank you.
>
> Jef Bourgeau
>
> Director,
>
> Museum of New Art"

Here are edited versions of several of the letters sent to Mayor Walter Moore of Pontiac and forwarded to the WSWS:

Mayor Moore,

I urge you to reconsider the decision to press charges against Mr. Bourgeau. Your display of philistinism is obscene. It is an offense to artistic freedom and democratic rights in general.

Minneapolis

Dear Mayor Moore:

It has come to my attention that artist Jef Bourgeau is now being subjected to the possibility of arrest on charges of obscenity for his recent exhibit in Pontiac, Fear No Art.

To intimidate or prosecute this man for the showing of artistic objects is a travesty against artistic freedom. Art must be allowed its own unfettered conditions for production and display. An untrammeled art is an essential component of democratic life. More than that, feelings and thoughts in a variety of media cannot develop in a healthy manner without allowing artists to create and display what they wish.

Ann Arbor, Michigan

To Mayor Walter Moore:

I am writing to you to protest the flagrant violation of civil rights and acts of artistic censorship regarding the obscenity charges against Pontiac resident Jef Bourgeau. As a New York based journalist, I am appalled and unfortunately familiar with the recent proliferation of censorship activities against artists and journalists. Here in New York City a similar case of government harassment of an artist and his museum exhibit was met with vigorous protests and significant compensatory damages found against the local government. I urge you to reconsider the ethical violations inherent in the actions of your administration against Jef Bourgeau and drop all charges against him. Thank you.

New York City

To Mayor Walter Moore:

The obscenity charges against artist Jef Bourgeau are a travesty of justice and an attack on democratic rights. The exhibit FEAR NO ART was a reproduction of images of some of the greatest artists in history, including Rembrandt and Picasso. It isn't Bourgeau who is guilty of obscenity, but the police and city officials of Pontiac for proceeding with this utterly outrageous charge. We demand that all charges against Bourgeau be dropped immediately.

Toronto

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