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Chicago Museum Clinging To Nazi-Looted Art, NY Court Told

By **Rachel Scharf**

Law360, New York (August 29, 2024, 6:47 PM EDT) -- A prosecutor in the Manhattan District Attorney's Office argued in court Thursday that the Art Institute of Chicago is ignoring the horrors of the Nazi regime as it "desperately" attempts to hold onto a Holocaust victim's stolen Egon Schiele drawing.

New York Supreme Court Justice Althea Drysdale heard arguments in the first day of what's expected to be a multiday hearing in the Manhattan DA's **seizure action** over "Russian War Prisoner," a Schiele drawing allegedly looted from Jewish-Austrian cabaret artist Fritz Grünbaum before he was killed at the Dachau concentration camp in 1941.

The Art Institute says it thoroughly studied the provenance of "Russian War Prisoner" and determined that it was not stolen by the Nazis. The museum claims that in reality, Grünbaum's family moved his large collection of Schiele drawings out of Austria and then lawfully sold the works to Swiss art dealer Eberhard Kornfeld after World War II.

Matthew Bogdanos, the chief of the Manhattan DA's Antiquities Trafficking Unit, refuted those arguments in a dramatic and historically detailed oration Thursday.

"No matter how desperately AIC tries to hold onto 'Russian War Prisoner,' it cannot change the fact that they are in possession of Nazi-looted art," Bogdanos told Justice Drysdale as he opened his hourslong presentation.

Bogdanos said it's "laughable" for the Art Institute to suggest that the Grünbaum family voluntarily chose to transfer their assets during the war. The evidence, he argued, shows the Jewish family's property was forcibly transferred to a Nazi-controlled shipping company and a so-called Aryan trustee.

The prosecutor also noted that Grünbaum signed over his power of attorney while imprisoned at Dachau.

"When was the last time he'd eaten? When was the last time he'd been beaten?" asked Bogdanos. "AIC would have you shield your eyes from the horrors [of the Holocaust] ... A power of attorney executed by a Jew who was interned at Dachau concentration camp awaiting execution could not have been voluntary."

Another problem with the Art Institute's defense, said Bogdanos, is that both Kornfeld and Otto Kallir — a New York gallerist who bought "Russian War Prisoner" in the 1950s — were "war profiteers" who repeatedly helped the Nazis launder stolen artworks from the Holocaust.

"If they were alive today, they'd be indicted by this office," Bogdanos said of Kornfeld and Kallir. "They escaped indictment by death."

The hearing is expected to continue next Friday with more from Bogdanos and counter-arguments from the Art Institute's lawyers at McDermott Will & Emery LLP. Justice Drysdale said oral arguments will likely go into at least a third day.

"It's not going to be a hurried affair," said the judge. "We'll go on for a number of Fridays from there

until we get to the end of the hearing."

The Art Institute is one of just a few museums to challenge the procedures of the Antiquities Trafficking Unit, which has seized and returned nearly 5,000 pieces of allegedly stolen art worth more than \$400 million since 2011.

The lion's share of institutions and private collectors targeted by Bogdanos' office have voluntarily surrendered their artworks. This includes other Schiele drawings from the Grünbaum collection, whose previous owners included the Museum of Modern Art, the Morgan Library & Museum and cosmetics heir Ronald Lauder.

But the Art Institute has stood its ground, vigorously litigating both the DA's action and a related civil lawsuit brought by Grünbaum's heirs. Also fighting against the Antiquities Trafficking Unit is the Cleveland Museum of Art, which filed a **federal suit** last fall contesting the Manhattan DA's seizure of an ancient statue supposedly stolen from Turkey.

The state is represented by Matthew Bogdanos and Edward Smith of the Manhattan District Attorney's Office.

The Art Institute is represented by Edward B. Diskant and Jennifer E. Levengood of McDermott Will & Emery LLP.

The case is In the Matter of an Application for a Warrant to Search the Premises Located at the Art Institute of Chicago, case number SMZ-77042-24, in the Supreme Court of the State of New York, County of New York.

--Editing by Kelly Duncan.