

Filmmaker Lawrence Brose's Guilty Plea: What it Means

by William C. Altreuter

The case against my friend Lawrence Brose now moves into the sentencing phase, which means that it is far from over. This, in turn, means that Brose is still not really able to comment—but I still can, and have, and will.

What is the take-away from the plea? This is a complicated question, but anyone who thinks to ask it should know several things. Six years of a legal battle is nothing like an ordinary plea bargain scenario. From the outset this case was different from nearly every child pornography prosecution I've researched, simply because it wasn't pled out at the first opportunity. The defense was pitched, and expensive. My estimate is that there was at least another year of expensive legal knife-fighting to go before trial.

What changed was that the US Attorney's office proposed a plea. This is rare. Typically DOJ will accept guilty pleas to the top count of the indictment—the most serious charge. In this instance the charge was reduced, from 18 USC § 1466A Obscene visual representations of the sexual abuse of children, to 18 USC § 1462- Obscenity. The superseding instrument referenced "viewing" a single image, instead "possessing" more than a thousand referenced in the original indictment. What happened? It seems pretty clear to me that the US Attorney's office acknowledged the weakness of its case, and that Lawrence has elected to move forward with his life, putting the crippling legal fees and toxic accusations behind him and returning to making art and being a positive force in the Western New York arts community.

Trial lawyers all know that litigation is something that you do until the escalation reaches the point of irrationality. When a rational choice presents itself, rational persons accept it. This plea means that Lawrence will not be tagged as a sex offender (anyone who knows him will realize what a grotesque thing that would have been). The downside risk of sentencing is substantially mitigated,

and as part of the agreement the prosecution has agreed that it will not oppose a “non-guidelines” sentence— something that is even more unusual than an agreement to accept a plea to a reduced charge.

Finally, a thought about the process. One of the things that I’ve noticed as this matter ground on was how surprised many of Lawrence’s friends were by the grueling quality of a criminal prosecution. The right against self-incrimination means that a defendant has to expect that anything he says to anyone turns that person into a potential witness in the case against him, and as a result the very people one might turn to for emotional support are effectively pushed away at the exact moment when sharing a confidence in exchange for emotional support is the most important thing in the life of the accused. It is alienating, and exhausting, and isolating; and the prosecution knows this and exploits it. The people who have stood with Lawrence have my respect—it isn’t easy to take a thing like this on faith. It is particularly difficult, I think, when the process is so unfamiliar. We think we know about how the criminal justice system works, but a case like this takes a lot longer than 43 minutes with timeout for commercials. The prosecution of Lawrence Brose is being carried out in our name—it is literally The United States of America vs. Lawrence Brose. The most powerful nation in the world against a solitary artist, possessed of pretty much all of the resources that you’d expect an experimental filmmaker would have. We should, as a community, be better aware of the other things that are being done in our name, and we ought to be calling for greater accountability and transparency.

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