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## Obscenity plea enables filmmaker to avoid child porn conviction

*Prosecutors say they were alerted to case by German law enforcement*



Lawrence Brose's supporters feel he is innocent.

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In the end, Lawrence Brose pleaded guilty to obscenity, not child pornography.

For people in the arts world, that's a huge caveat, a red flag of sorts, in their homemade analysis of whether the local filmmaker did anything wrong.

Yes, Brose admitted viewing obscene materials as part of a plea deal Wednesday, but artists are quick to point out that obscenity allegations have historically been a smokescreen for censorship.

By pleading guilty to obscenity, the former CEPA Gallery director also avoided a more serious child pornography conviction.

"It's a black eye on Buffalo," Jonathan D. Katz, associate professor of visual studies at the

University at Buffalo, said of Brose's plea agreement. "This seems to be a city intent on persecuting its artists."

Katz was referring to Brose and Steven J. Kurtz, a University at Buffalo art professor who was wrongfully prosecuted as part of a separate case several years ago.

And Katz is not alone in suggesting that Brose, like Kurtz, was targeted because of his art.

"I'm completely convinced of his innocence," Ed Cardoni, executive director of Hallwalls Contemporary Arts Center, said of Brose.

Unlike Kurtz, whose charges were dismissed by a federal judge, Brose admitted his guilt as part of a plea agreement that could send him to prison for up to a year, although prosecutors will not recommend that he serve time behind bars.

Brose also acknowledged viewing obscene material – a new indictment accuses him of transporting an image of an underaged boy engaged in sex – and owning an Internet address that downloaded obscene material.

"The average person in the community would find them patently offensive," Assistant U.S. Attorney Michael DiGiacomo said of the images found on Brose's computer.

In taking the plea deal, Brose avoided the possession of child pornography charge that he has faced since his arrest in November of 2009. He instead pleaded guilty to transportation of obscene material.

Known across the world for experimental films that explore the boundaries of male sexuality, Brose was accused of possessing 1,300 child porn images on his laptop.

He resigned his job as head of the CEPA Gallery after his arrest and a year later was indicted by a grand jury on a felony charge of knowingly possessing child pornography.

His lawyers said Wednesday that those same images, the ones that led to the federal investigation, never showed up on Brose's laptop.

"There's no question those images weren't found on his computer," said Michael S. Deal, one of

Brose's defense lawyers.

Deal said he could not talk about his client's reasons for taking a plea deal or its impact on his future as a filmmaker.

Both sides, however, made mention Wednesday of the potential for Brose to have to register as a sex offender, a common requirement in sexual abuse and pornography cases.

"I don't know if this charge is or isn't one that requires you to register," Chief U.S. District Judge William M. Skretny told Brose.

As part of the plea deal, prosecutors will not push for Brose's registration as a sex offender. They also agreed not to recommend a jail sentence.

"We don't oppose a sentence of probation or home confinement," DiGiacomo said Wednesday.

Brose has maintained his innocence since he was charged more than four years ago, and the arts community here and across the world has supported him.

"We have someone disturbed by an artistic practice and intent on ending that practice," Katz said of the government's prosecution.

He and others think Brose agreed to a plea deal for one simple reason – his legal defense was causing him to go broke.

"I respect what he felt he had to do," said Cardoni. "I understand why, under the pressure of the prosecution, he thought his better option was to plead guilty."

From Day One, fellow artists and patrons have argued that Brose's prosecution was, in fact, a battle over artistic freedom and that prosecutors overreached in their pursuit of Brose.

For some of Brose's backers, the case seemed disturbingly similar to the prosecution of Kurtz, the UB professor accused of illegally obtaining bacterial agents through the mail.

Kurtz denied the allegation and said the bacteria, which was harmless, was intended for use in an art exhibit protesting government policies.

Kurtz's supporters said he was targeted because of his anti-government views. Prosecutors denied those accusations, but a judge eventually dismissed the charges against him.

"We didn't randomly go after Mr. Brose," DiGiacomo said of the government's prosecution. "The case was referred to our office by German law enforcement and, in the end, Mr. Brose agreed to plead guilty."

At one point during his prosecution, Brose claimed that someone else, without his knowledge or permission, must have used his computer to download child porn images.

The investigation into his laptop began with a tip from law enforcement officials in Germany, who supplied Immigration & Customs Enforcement agents here with an Internet address that had downloaded 58 images of suspected child porn.

The agents then traced the address to Brose and, after a forensic examination of his laptop, charged him with possessing 1,300 child porn images.

Brose, as part of his defense, hired his own independent forensic examiner. The results of her analysis of the laptop have never been made public.

In June 2011, U.S. Magistrate Judge Jeremiah J. McCarthy recommended the child pornography charge against Brose be dropped because of flaws in the government's presentation.

Six months later, Skretny ruled that the federal indictment should stand.

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