

In this legal fight, the Art Institute stands to lose more than an artwork

By Brandon Dupré



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The Art Institute of Chicago is fighting in court to retain ownership of a drawing believed to have been stolen during the Holocaust, but the museum stands to lose more than just an artwork.

The museum's legal team is preparing to respond to [a detailed 160-page motion](#) filed by the Manhattan District Attorney's Office, which says the Art Institute applied "willful blindness" to clearly stolen property in "one of the most flagrant Nazi-era lootings of a Holocaust victim's cultural property yet uncovered." **(Read the full filing below.)**

As part of the Manhattan district attorney's investigation, 10 of 11 artworks by Egon Schiele were returned from different cultural institutions and collectors to the heirs of Fritz Grünbaum, a Jewish cabaret entertainer from Vienna, Austria, who was murdered in a Nazi concentration camp and his art collection looted, according to New York officials. [The Art Institute of Chicago remains the lone holdout.](#)

"The Art Institute is really ethically out of step with the art world and its peer institutions in this case," said Elizabeth Campbell, a professor of history and director of the Center for Art Collection Ethics at the University of Denver. "There's a growing audience of people paying attention to these cases and their reputation has been tainted by refusing to restitute the drawing."

In a written statement, the museum said it had "extensive research" in the provenance history of the work and is "confident" in its "lawful ownership."

"If we had this work unlawfully, we would return it, but that is not the case here," the statement read.

The Manhattan District Attorney's Office tells a different story. In its motion, prosecutors present various instances where the museum failed to properly vet the artwork's history, which, as the district attorney's office writes in the court filing, "undercuts any arguments that AIC were truly good-faith purchasers."

A victory?

[The Art Institute of Chicago recently claimed victory](#) in another, separate legal battle over the provenance of the same artwork, this one with the heirs of the Grünbaum family. In that civil suit, the judge found the heirs had exceeded the statute of limitations.

In his ruling, the judge said the AIC was a "good-faith possessor" of the artwork, which it purchased in 1966, and that "had it been so clear that the artwork was stolen, the plaintiffs would have made a demand sooner than 40 years after the defendant acquired the artwork."

The Grünbaum heirs are appealing the ruling. An attorney for the family is pushing back against the perception of an Art Institute victory in the case.

"Good-faith possession of stolen art is not a valid defense under New York law," said Raymond Dowd, an attorney representing the Grünbaum heirs. "I'm perplexed that the Art Institute of Chicago could characterize this proceeding as any sort of a victory. . . . These are just bullying tactics against Holocaust families."

The ruling, however, didn't address the underlying question that the Manhattan District Attorney's Office seeks to determine in court of whether the "Russian War Prisoner" drawing was indeed looted and who the rightful owners should be.

Presented at the conference was a list of internally backed best practices, supported by the State Department, for the future pursuit of Nazi-looted art and artifacts. Gideon Taylor, president of the World Jewish Restitution Organization, which supported countries in drafting the document, said fighting technical legal battles goes against those internationally recognized principles that are endorsed by 22 countries.

“A statute of limitations is a technical device. It's not a device around morality or what's right,” Taylor said. “Technical law has become a substitute for a judgment on what is the right thing to do, and I think that's a mistake.”

In his video remarks during the conference, Blinken laid out the challenges facing heirs in reclaiming looted artwork, saying “too many governments, museums, dealers, galleries and individuals still resist restitution efforts,” all while the heirs “confront staggering legal and financial barriers.”

“Family members must prove they are the true heirs,” he continued. “That their art was wrongly taken or subject to a forced sale. That their relatives were persecuted. That statutes of limitations do not apply — an absurd obligation to place on the descendants of people who were murdered eight decades ago.”

More provenance problems

This is not the first time the Art Institute of Chicago has faced disputes over provenance. A recent investigation by [Crain's and ProPublica found](#) that at least four pieces from the museum's Alsdorf collection may have been looted from Nepal and exported illegally, including an inscribed gilt-copper necklace that the Nepali government wants returned.

The Alsdorf collection also contains incomplete provenance by modern standards, according to a national online registry of museum pieces, the report found. “While some museums have taken a more expansive approach to weeding out looted artifacts,” Crain's and ProPublica wrote, “the Art Institute lags behind.”

Campbell, the University of Denver ethicist, believes these broader provenance disputes may play a role in the museum's reluctance to voluntarily return the Schiele piece.

“AIC's legal proceedings seem like actions that a museum takes when it's feeling threatened and may be an effort to protect itself from future claims for different pieces it possesses,” she said.

With these disputes out in the open, and as the legal fights continue, the museum faces an optics problem. And Gerstenblith of DePaul said the museum has now lost the opportunity to shape public perceptions.

“These institutions like the Art Institute have a lot more to gain by being magnanimous and doing something voluntarily,” she said. “By fighting in court, they can no longer control the public narrative.”