

Federal judge keeps controversial photo exhibit open

CINCINNATI - A federal judge barred police Sunday from confiscating photographs from an exhibition of Robert Mapplethorpe's works that led to an obscenity indictment against an arts center and its director.

U.S. District Judge Carl Rubin also ordered county and city authorities not to interfere in any way with the exhibition while the obscenity charges are tried in state court.

The Contemporary Arts Center

hailed the protective order, which will let the 175-photo exhibit proceed unchanged until a jury can decide whether its seven sexually explicit photos are obscene.

"We got everything we wanted out of this hearing," said arts center lawyer H. Louis Sirkin.

The exhibit opened to the public Saturday morning, attracting a crowd of thousands including nine grand jury members. It was closed for an

hour in the afternoon when the arts center and its director, Dennis Barrie, were indicted on state obscenity charges.

Patrons were told to leave the center while police videotaped the display under a search warrant. The exhibit then reopened.

Hamilton County Prosecutor Arthur Ney Jr. asked the center on Saturday to voluntarily remove seven photographs that grand jurors found objec-

tionable, but center officials refused.

Ney made a veiled threat of more action if the photographs remained in place this week, and wouldn't rule out confiscation.

The seven photos include two of children either naked or partially naked, and others depicting homoerotic acts.

Last June, the Corcoran Gallery of Art in Washington, D.C., canceled the exhibit. The Washington exhibit prompted Congress to limit funds for

the arts after Sen. Jesse Helms, R-N.C., declared the photographs obscene.

The judge agreed to the unusual emergency hearing Sunday morning requested by the arts center, which won an order prohibiting further police interference with the show. At the outset of the hearing, Rubin said that seizing the photos would make the argument about displaying them moot before it is even decided.

Rubin ordered the arts center to give prosecutors a copy of each photograph for use at trial. He also said there was no reason for authorities to interfere with the exhibition, which runs through May 26 and moves to Boston in August.

"I'm also going to enjoin each of the defendants, their agents, their employees and anyone under their control from interfering or terminating the current exhibit without further order of the court," Rubin said.

"You may not recover any photos, you may not close the exhibit to the public, you may not take any action that could be intimidating in nature to prevent the public from seeing the exhibit," the judge said.

Rubin said he would file his written opinion Monday.

Police had an obligation to maintain order at the exhibit, which drew more than 3,000 people on opening day Saturday, "but that may not be used as an excuse to shut down this exhibit," Rubin said.

Both sides agreed to the order, which will remain in effect while they prepare for trial in Hamilton County Common Pleas Court.

The next step is Barrie's arraignment Friday, at which he is expected to plead innocent to charges of pandering obscenity and illegal use of a minor in nudity-oriented material.

The exhibit reopened at noon Sunday, an hour early, attracting a crowd that eventually stretched around the block. They cheered loudly when workers from the arts center announced the judicial orders.

The arts center is not admitting people under 18 and has put up a warning sign at the door.

The University of Pennsylvania's Institute of Contemporary Art organized the exhibit in the fall of 1988. It drew crowds in Philadelphia in December 1988 and in Chicago at the time of Mapplethorpe's March 1989 death from AIDS. Mapplethorpe, 42, lived in New York City.

The exhibit has also been shown in Boston, Hartford, Conn., and Berkeley, Calif.

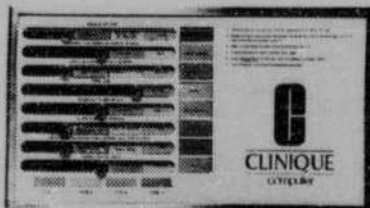
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