

STOLEN ART FROM THE HOLOCAUST TO THE PRESENT

by Frank Coniglio

Throughout World War II and the Holocaust, Nazi Germany led a campaign to loot art from Jews and others that were living in their occupied countries. During their campaign, the Nazis obtained hundreds of thousands of pieces of artwork worth billions of dollars. Some of the pieces of artwork were deemed impure by the Nazis and, therefore, were sent overseas for a profit. The artworks that were kept by the Nazis were stored in repositories located across Germany and Austria. At the end of World War II, the Allied Forces recovered many of the pieces of artwork that were stolen by the Nazis. These pieces were then identified and sent back to their countries of origin. The governments of such countries were then tasked with locating the original owners of the pieces of artwork and returning the artwork.

Unfortunately, many of the pieces of artwork were never able to be tracked down, and many did not return to their original owners. Therefore, in 1985, countries in Europe began releasing inventory lists of the pieces of art that were looted from the Jews and others by the Nazis. A little over a decade later, the recovery and distribution of these pieces of artwork to their original owners took on an international scale. In 1998, thirty-nine countries signed a pledge to identify the stolen works and compensate the owners and/or their heirs. Around this time, many of the pieces of artwork that were stolen were located while on display in museums around the world. This resulted in various lawsuits and court cases around the globe. Most of these lawsuits and court cases involved the heirs of the original owners since the original owners were long deceased. One such case began with Lea Bondi Jaray.

Lea Bondi Jaray was an Austrian-Jewish art dealer who fled Austria during the Anschluss, or the Nazi annexation of Austria. She had owned an art gallery in Vienna, Austria. Jaray had acquired a painting known as the *Portrait of Wally*, painted by an artist by the name of Egon Schiele. The *Portrait of Wally* was painted in 1912, and it depicts a woman who was Schiele's lover and model for many years. During the *Anschluss*, the Nazis declared Jaray's art gallery impure and it was subjected to confiscation. Jaray then sold her art gallery to a Nazi art collector named Friedrich Welz. The night before Jaray and her husband were set to flee Austria, Welz visited their apartment to discuss the art gallery with Jaray. While discussing the gallery, Welz discovered the *Portrait of Wally* and demanded Jaray to turn it over to him. Jaray was very reluctant to turn the painting over since it was part of her personal/private collection. Her husband convinced her to turn the painting over to Welz out of fear of what he could do to them, such as prevent their escape from Austria. Jaray and her husband then fled to London, England.

After the war was over and the Allied forces had seized control of Austria, the United States military arrested Welz and seized his art collection, which included the *Portrait of Wally*. The whole collection was turned over to the Austrian government by the United States military. This fulfilled the United States' policy to return any seized property from Nazis to their original countries. The *Portrait of Wally* was included in a group of paintings by Egon Schiele previously owned by and eventually turned over to the family of an Austrian-Jew named Dr. Rieger. Dr. Rieger's son inherited the painting after his father died in the Holocaust. The son then sold the painting to the Austrian National Gallery located in the Belvedere Palace.

In 1953, an Austrian collector of art named Dr. Rudolph Leopold visited Jaray during a trip to London. Dr. Leopold had previously collected several pieces of Egon Schiele's art. During the visit, Dr. Leopold acquired many paintings from Jaray. Jaray was curious of the whereabouts of the *Portrait of Wally*, and asked Dr. Leopold if he had any knowledge of where it was. He was unaware that the painting had belonged to Jaray and told her where it was located. Jaray pleaded for Dr. Leopold's help in reacquiring her painting and he agreed to help her. Dr. Leopold then entered an agreement with the Belvedere Palace to obtain the *Portrait of Wally* in exchange for one of his Schiele paintings. By fulfilling the agreement, Dr. Leopold would acquire the *Portrait of Wally* for himself. When Jaray learned that Dr. Leopold acquired the painting for himself, she attempted to reclaim her painting by asking lawyers to convince him to return it. This was unsuccessful, and Jaray continued to fight to reclaim her painting until her death in 1969.

In 1994, Dr. Leopold sold his art collection, including the *Portrait of Wally*, to the newly established Leopold Museum. In 1997, part of the Leopold Museum's Egon Schiele art collection was loaned to the New York Museum of Modern Art, or MOMA. The *Portrait of Wally* was included with the collection and was exhibited in the MOMA. A few days after the exhibition had ended, the District Attorney of New York County, Robert M. Morgenthau, issued a subpoena for the *Portrait of Wally*. The subpoena was issued upon Morgenthau discovering a probable cause that the painting was stolen property that entered the United States in violation of federal law. The subpoena was suppressed by the New York Court of Appeals. The day after the subpoena was suppressed, United States Magistrate Judge James C. Francis IV issued a seizure warrant for the painting. United States Customs then seized the painting from the MOMA.

Following the seizure of the *Portrait of Wally*, the United States began a civil action lawsuit in the hopes of returning the painting to Jaray's heirs. The United States Attorney's Office for the Southern District of New York filed a civil complaint in a Manhattan federal court that claimed the *Portrait of Wally* was stolen property and entered the United States in violation of the National Stolen Property Act. Jaray's heirs, the MOMA, and the Leopold Museum all filed claims in this lawsuit. The Leopold Museum argued that Friedrich Welz

never stole the *Portrait of Wally*, and Dr. Leopold never knew that the painting was stolen property when it was sent to the United States.

In 2009, United States District Judge Loretta A. Preska issued a 109-page decision on the case. The decision stated that the court did not agree with the Leopold Museum's claim that the *Portrait of Wally* was not stolen property. The conclusion was that the painting ultimately belonged to Lea Bondi Jaray, and Friedrich Welz did steal it from her. It was stated in the conclusion that the painting was identified as stolen even when it entered the United States. The court also stated that there was probable cause that Dr. Leopold did know that the painting was stolen when it entered the United States. The next step in the case was to determine if Dr. Leopold had knowledge of the painting being stolen. Therefore, a trial was set for July 26, 2010. Before the trial was set to begin, a settlement in the case was reached by the United States Government, the Leopold Museum, and Jaray's heirs. The agreement stated that the Leopold Museum will pay Jaray's heirs \$19 million in exchange for the *Portrait of Wally*.

Nazi Germany committed heinous crimes during World War II against the Jews and others, including looting valuable art. The effects of these crimes were felt for many decades by people all around the world. The case of Lea Bondi Jaray was just one of many cases of stolen art not being returned to their original owners. This case brought up many important legal issues. It displayed how a piece of artwork can be classified as stolen property under the National Stolen Property Act. Although the Leopold Museum believed that Dr. Leopold had no knowledge of the *Portrait of Wally* being stolen, this position was invalid. Since Friedrich Welz unlawfully took the painting from Jaray, it was classified as stolen property. This also meant that the painting could be seized since the National Stolen Property Act had been violated.

The effort made by various countries around the world to return artwork that had been stolen during World War II and the Holocaust seems halfhearted. If the countries involved were more determined to return the artwork to its original owners, results would have been seen much sooner. The case of Lea Bondi Jaray demonstrates this clearly. This situation wasn't resolved for nearly eight decades, which shows that it wasn't a primary concern of anyone except for Lea Bondi Jaray and her heirs. The actions taken by the courts ultimately led to an agreement in this case, but the *Portrait of Wally* was never truly returned to its original owner. It took prolonged legal action to resolve this particular case, and not the actions of the countries charged with returning artwork to their rightful owners. This can be considered a failure for the countries involved for not fulfilling their pledge to the many people who had their artwork stolen from the Nazis.

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