

**Historical Society of the New York Courts**  
**2018 Garfinkel Essay Scholarship**

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**Summary of Lea Bondi Jaray Case**

**253 A.D.2d 211 (1999)**

Lea Bondi Jaray, a Jewish woman, was forced to flee her home in Austria with nothing more than she could carry. She left behind one of her most precious assets, a painting entitled, "Portrait of Wally," by Egon Shiele. Her painting was taken from her by the Nazi regime. Prior to her death, she attempted to recover the painting, but to no avail. Her nephew, Henry Bondi, attempted to recover the painting in 1997 while it was on exhibit in New York on loan, from the Leopold Foundation, at the Museum of Modern Art. The Museum did not return the painting and on January 7, 1998, the Manhattan District Attorney served MoMA with a subpoena demanding the return of the paintings.

The Museum refused and filed suit to invalidate the subpoena. The Supreme Court, New York County held that the subpoena was invalid because of Section 12.03 of the Arts and Cultural Affairs Law, which prohibits the seizure of art owned by foreign entities to allow for the sharing of art across jurisdictional boundaries. The Manhattan District Attorney appealed the Court's decision. (An appeal allows a party to a lawsuit to ask a different court to reconsider the legal issues).

On May 13, 1998, Justice Richard Andrias and the concurring members of the Appellate Division, First Department reversed the decision of the lower court in favor of the Jaray family and wrote, "No one disputes that intent, but it is not contended, nor could it be, that the public interest is served by permitting the free flow of stolen art into and out of the State." *Grand Jury (Museum of Art)*, 253 A.D.2d 211, 216 (N.Y. App. Div. 1999).

An appeal in this case was heard by the New York State Court of Appeals on August 24, 1999. The Court upheld the ruling of the Supreme Court, New York County, reversing the decision by the Appellate Division, in a 6 to 1 decision. The Court stated that the law did not allow for the seizure of the painting and directed its return to the Leopold Foundation.