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Value of public art in vandalism cases an unclear issue

Friday, June 11, 2010 By Erin Hevern ~ Southeast Missouriian

For Scott City artist and businessman Paul Schock, putting up a second sculpture in the city's downtown district took a bit of courage. Schock's first sculpture that appeared for public viewing -- a piece he calls "The Totem of Birds" -- was vandalized by a patron of his pub in August.

The sculpture, which Schock completed during the summer of 2008, is a celebration of the life and death of a bird and sits just 100 feet from his establishment's entrance.

The perpetrator, Stephen M. Pind, a Scott City resident currently serving in the military, was convicted of second-degree property damage, a misdemeanor, for punching and breaking a glass panel on the piece. The shattered glass also scratched paint on another glass panel.

Pind was ordered to undergo a year of unsupervised probation and pay restitution of \$750.

Pind's sentence isn't acceptable, Schock said, with the ruling questioning the value of public art.

"I put around 600 hours into that sculpture, and galleries estimated it at \$15,000. I was just asking for half that," Schock said.

In addition, lawyers and experts dealing with crimes against art say it's surprising U.S. laws protecting and conserving the arts have only been scrutinized in recent years.

At a March 24 plea and restitution hearing, Schock presented to the judge estimates from well-established galleries, including Leedy-Voulkos Art Center, an internationally known gallery in Kansas City.

The judge didn't allow the letters illustrating the sculpture's value to be admitted into evidence because the authors didn't appear at the hearing in person, according to Schock.

Also, while discussing a proper amount of restitution, Schock said defense lawyers questioned his credibility as an artist and the cost of replacing the broken glass panel.

"I've been an international artist since 1990, and it's a one-of-a-kind art piece," Schock said. "If someone slices the Mona Lisa, you just don't pay for the materials. It can't be replaced."

Scott County assistant prosecuting attorney Austin Crowe didn't return phone calls to comment on the case.

Mark Durney, business director of the not-for-profit think tank the Association for Research into Crimes Against Art, said the United States has only recently began to review sentencing guidelines for crimes against art. Durney has seen cases involving stolen or damaged art most often handled as property crimes rather than as crimes against culture.

"A work is assigned greater value as it evokes a greater degree of feelings and emotions from viewers and connoisseurs. Some elements to consider are, does one use an auction value estimate, an insurer's appraisal estimate, an independent sale price or the repair



Paul Schock stands next to his sculpture with a panel missing due to vandalism. (Fred Lynch) [Click to enlarge] [Order this photo]



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cost?" Durney said. "These elements coupled with the inherent instability in the art market make it difficult to assign compensation. I think many court rulings will err on the side of conservative estimates."

Michael Kahn, who works with copyright law as a partner with the Bryan Cave LLP law firm in St. Louis, said that in many cases, the valuation of an art piece that's been damaged will occur in a civil case rather than a criminal case.

In a criminal case, "the focus of the court is really more on punishment than the restitution," said Kahn, who has represented numerous artists, photographers and musicians.

An artwork's value is most often disputed, according to Kahn, in divorce cases and bankruptcy cases.

"The law views art as property, and to a lot of artists and art dealers it's a commodity. There are experts who deal with this all the time," Kahn said. "There's the value of the art itself, and there's the value of the copyright in the art."

Although Schock has considered filing a civil suit, he said it wouldn't be possible while Pind is on active duty in the military. So, for now, the sculpture will remain outside Schock's Pub. Although he's received the money Pind was ordered to pay, Schock plans to leave it damaged.

"I'm letting it stay as it is, as a constant reminder, so people know that it's a vandalized piece," Schock said.

Scott City High School art instructor Matt Miller said that although public art is always at risk of being damaged, it's important to share with the community. In May, Miller set up a sculpture garden consisting of six pieces at Hunter Valley Winery. Miller hopes to add more pieces if the community reaction is positive.

"I used to be more worried about vandalism. You kind of just have to let go; otherwise, you punish all the art lovers for the one or two people who are going to act like idiots," Miller said. "Is it not worth taking the risk?"

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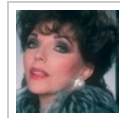
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How can you question anyone's credibility as an artist? There are no guidelines or requirements for the title. Either way, it isn't relevant. His piece was destroyed, and he deserves the same restitution as any other person who lost something of value due to vandalism.



-- Posted by **runswithscissors** on Fri, Jun 11, 2010, at 12:43 AM

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