

The Philadelphia Inquirer

October 19, 2007

"A Barnes hearing with fireworks on the side"

By Diane Mastrull

A routine court session over the latest attempt to block the Barnes Foundation art collection from leaving Merion for Philadelphia turned to drama today when a lawyer accused the judge of doing too little, too slowly, in the case.

"Let's cut through it," said Mark Schwartz, representing the Friends of the Barnes Foundation, a group of Merion neighbors and art enthusiasts opposing the relocation. "You . . . are the master of your own courtroom."

An irritated Montgomery County Orphans' Court Judge Stanley R. Ott scolded Schwartz for "grandstanding" for the standing-room-only audience of more than 50 Friends members.

When the lawyer persisted, Ott asked sharply: "Do I look like an idiot to you?"

Schwartz did not reply.

The exchange came during a 10-minute session that Ott called to set deadlines for written briefs. Schwartz had wanted a full-blown hearing, to present testimony that he contends will prove that Ott lacked sufficient facts when he decided nearly three years ago to allow the Barnes to leave Lower Merion Township.

The Friends of the Barnes traveled to the Norristown courthouse expecting at least a few riveting hours of revelations - if not an order from Ott halting the move from Latches Lane to the Parkway. Several wore black lapel pins reading "The Barnes Belongs in Merion."

Afterward, some said they felt cheated. "This was short, but not so sweet," Jane Hurford said as she boarded the fifth-floor elevator around 10 a.m. to head home to West Chester.

At issue are lawsuits filed by Friends of the Barnes, art students, some neighbors, and Montgomery County. All are seeking to reopen the case in the hope of keeping the late Albert C. Barnes' billion-dollar art collection where it is.

Barnes, who died in 1951, decreed in his will that his collection, heavy in Renoirs, Cezannes and Matisses, should never be broken up or moved.

As the foundation's financial troubles mounted, the Barnes board asked for court permission to take part of the cache on tour, and then to move all of it permanently. The board told Ott that the

foundation would fail unless it could reap the financial benefit of a more accessible location in Philadelphia.

In December 2004, the judge agreed, ruling that the art could go to a new home.

In their lawsuit, the Friends contend that the Barnes board misled Ott by not telling him that the state had put \$107 million into the capital budget to help with a possible move to Philadelphia.

The group is asking Ott to dissolve the Barnes board and appoint a receiver to run the foundation under his supervision.

Montgomery County wants Ott to order the board to reconsider the county's offer to buy the Latchs Lane mansion and its grounds. The art would remain, and the Barnes would pay rent to the county by investing the profits from the sale.

Lawyers for the Barnes board contend that none of the litigants has any standing, and are asking that they be required to pay the foundation's legal fees.

Ott gave the Barnes' lawyers 30 days to submit briefs supporting their position. Thirty days after that, the judge said, he will expect responses from the parties opposing the move.

Contact staff writer Diane Mastrull at 610-313-8095 or dmastrull@phillynews.com.