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Professor Is Indicted Over Procuring Biological Materials for Art

By MEL GUSSOW

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The federal government has indicted an artist and assistant professor at the State University of New York at Buffalo over his use of biological materials in his artwork.

The indictment prompted alarm yesterday among his fellow artists, who saw hints of censorship and worse in the action.

The professor, Steven Kurtz, 46, was charged on Tuesday with illegally obtaining the biological substances, which included e. Coli bacteria and other materials. It was unclear how Mr. Kurtz planned to use the materials in his biotech-themed artwork, which in the past has included performance art and multimedia presentations.

His defenders say that Mr. Kurtz was merely trying to provoke discussion through art and that the government's decision to seek an indictment would stifle such debate.

The four-count indictment handed down by a federal grand jury in Buffalo charged Mr. Kurtz with wire fraud and mail fraud. Also indicted was Robert Ferrell, chairman of the University of Pittsburgh's human genetics department. Dr. Ferrell was accused of obtaining biological organisms for Mr. Kurtz on the pretext that they would be used in a classroom. Mr. Kurtz was unavailable for comment yesterday, but The Associated Press reported that his attorney, Paul Cambria, said the accusations amounted to a



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complaint of "petty larceny." He called the indictment "a real stretch."

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Michael Battle, the United States attorney for New York's western district, did not return telephone calls, but he told the A.P. that the indictment had nothing to do with terrorism. Instead, he said, it was "a case about fraud." The precise basis of the fraud charges was unknown.

The case began as the result of an investigation that was prompted by the sudden death of Mr. Kurtz's wife at their home in Buffalo on May 11. Mr. Kurtz phoned 911, and a paramedic noticed laboratory equipment in the house. That observation led agents from the Joint Terrorism Task Force to search the house for hazardous materials and investigate Mr. Kurtz's use of the materials.

Ed Cardoni, who runs Hallwalls, a contemporary arts center in Buffalo, said the organization Mr. Kurtz belonged to, the Critical Art Ensemble, is peaceful, but "critical of capitalism and the corporate control of biotechnology." He called Mr. Kurtz's art "multimedia, conceptual in nature and interactive."

Karen Finley, a New York performance artist, said that as a result, artists and arts organizations are "feeling very fearful" about invasions of their freedom.

The Massachusetts Museum of Contemporary Art in North Adams, Mass., had scheduled a group exhibition that included the work of Mr. Kurtz and the Critical Art Ensemble.

Nato Thompson, the curator of the show, said the F.B.I. confiscated Mr. Kurtz's artwork as well as other material from his home. The show opened May 30 without Mr. Kurtz's piece on display.

Mr. Thompson said the charges in the indictment are "a far cry from bioterrorism. This is obviously an admission that they're barking up the wrong tree. But it's put the chill in a lot of people."

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