

# Photo books, sold as art, also seen as child porn

## Store chain indicted, authors scrutinized

By J.R. MOEHRINGER  
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ATLANTA — The girl in the photograph is the archetypal kid sister. No more than 12, her body is a boy's. But her face is pure woman, and moreover, she's wearing no clothes.

The photograph is fine art in the eyes of many. But in Alabama, South Carolina, Colorado and elsewhere, it's the ultimate indecency: child pornography.

And one day soon the courts may see it that way, too.

Two weeks ago an Alabama grand jury indicted Barnes & Noble bookstores for peddling obscenity, namely two coffee-table books. This bitter debate about photographers David Hamilton and Jock Sturges centers on the intent and the content of their work, on Hamilton's unorthodox beliefs about young girls and Sturges' disturbing behavior toward one.

Specifically, the Alabama grand jury cited "The Age of Innocence," by Hamilton, and "Radiant Identities," by Sturges, two books filled with high-quality photographs thought by thousands of consumers and many critics to be socially acceptable.

But both books focus almost exclusively on naked girls, poised on the precipice of puberty. Sometimes the girls are featured suggestively, other times erotically.

Even before Alabama slapped

Barnes & Noble with a 32-count felony indictment punishable by a \$320,000 fine, Tennessee charged the nation's largest bookseller with misdemeanor violations of a state obscenity law.

In Kansas, Virginia, Missouri, Florida, Nebraska, Pennsylvania and at least 20 other states, groups are pressuring local officials to take action.

**IF DECLARED** child pornography, the photographs would be unprotected by the First Amendment, since the U.S. Supreme Court has excluded child pornography from the rights of self-expression. But in its last landmark ruling on child pornography, 16 years ago, the justices left lower courts and lawmakers to grapple with what constitutes sexual depiction of children.

Now along comes the work of Hamilton and Sturges, whose work sexualizes children and whose profiles trouble law enforcement officers as much as their portfolios.

"This presents a case squarely in the middle, in which artistic merit is claimed to come precisely from the eroticism of children," said Jack Balkin, a professor of constitutional law and the First Amendment at Yale Law School.

For the second time in eight years, Sturges is the target of a U.S. Justice Department probe. A spokesman for the department said it was reviewing his work to see if it constitutes child pornography.

In 1990, police and federal agents stormed his San Francisco studio, where they claimed to find photographs of nude children, along with

letters and photographs that suggested Sturges had engaged in a sexual relationship with a 14-year-old girl. It's a relationship Sturges doesn't deny.

But a grand jury didn't think the evidence added up to child pornography and decided not to indict.

Last summer, Randall Terry, founder of the anti-abortion group Operation Rescue, heard about Hamilton and Sturges and went to his local Barnes & Noble to review the books.

"I honestly wasn't believing that Barnes & Noble was selling child pornography," Terry said. "My wife and I have been shopping there for years."

**FUELED BY** Terry's syndicated radio show, people in dozens of cities began picketing outside bookstores or raiding the shelves.

Despite the mounting pressure, Barnes & Noble vows to continue stocking Hamilton and Sturges, although many of the company's 483 stores reportedly keep the books hidden or only stock them at a customer's request.

Sturges, 50, insists he has the consent of all his models, plus their parents. "The intent of these photographs is to be beautiful," he said.

But in one case, Sturges' relationship went a step further. When he was 28 he had a sexual relationship with a 14-year-old named Jennifer Montgomery.

At the time, she was a New England boarding school student; he was her dorm counselor. They became intimate when he used her as a model.

Montgomery, now 36 and a filmmaker living in Brooklyn, said the episode left her "damaged."

Still, Montgomery doesn't think he should be prosecuted, because their relationship was "consensual." And she has only high praise for the quality of his prints.

"It's confusing," she conceded. "But that's life. It's not black and white."

For his part, Sturges said: "I've had four relationships in my life. That's it. Period. She was the second. And it was at a point in time when I was getting divorced from my wife. I was vulnerable and making bad decisions."

**UNLIKE STURGES**, who is far less commercially popular but more critically praised, the 65-year-old Hamilton says sex is a big part of what he does with the camera.

Little girls are "erotic," he said, plain and simple. His photographs — most of which are romantically hazy and colorful, a contrast to Sturges' stark black-and-white images — seek to elicit that eroticism.

Speaking by phone from his Paris apartment, Hamilton mocks efforts to censor his work.

Hamilton, who met his 30-year-old wife when she was one of his 13-year-old models, draws a line between erotic photography of children and child pornography, and he said the public does as well.

"If Lewis Carroll were alive today he would be in jail," Hamilton said of the author of "Alice in Wonderland," a notorious pedophile. "He was a wonderful man."