

Regina (on the application of John Allman)

v

The Secretary of State for Constitutional Affairs

SECTION 8 Statement of facts relied on

- 1) The applicant is male and heterosexual in orientation. He describes himself as a "conscientious heterosexual person".
- 2) The applicant's strict religious beliefs require him to be quite certain beforehand that the birth gender of anyone whom he marries, or with whom he has a sexual relationship, is female.
- 3) The applicant's very strong personal aesthetic preferences as touching his own private life also require him to know beforehand that the birth gender of anyone whom he marries, or with whom he enters into a sexual relationship, is female.
- 4) The applicant also requires to know the true birth gender of anybody who is a part of his private and/or family life insofar as that person might be employed to work in the applicant's home, for example as a nurse or carer.
- 5) Since the applicant became acutely aware, during the year 2000, that appearance is not nowadays a completely reliable method of determining anyone's birth gender, he has generally been extremely careful to refrain from having any sexual relationships whatsoever with, or marrying, any apparent women whose birth gender he has not yet been able to verify beforehand.
- 6) It has been the custom worldwide for official documents that record the bearer's gender to record birth gender, particularly in the case of birth certificates, when to record any other kind of gender amounts to a misnomer of the document, if not a fraud. In the cases of most people, especially those whom one meets for the first time only late in one's life and theirs, the examination of an official document has often been the only practicable method of verifying birth gender. The applicant has been reliant upon this custom, of the accurate recording of birth gender on official documents, in the conduct of his private life, that of a conscientious heterosexual person.
- 7) Since the year 2000, the examination of an official document has been the only method that the applicant has ever used to verify the birth gender of any apparent women to whom he has been sexually attracted, for the purposes concerned with his own private life stated above. For example, in 2002, the applicant examined the passport of the woman with whom he is presently living, in order to check that her birth gender was female, before entering into a sexual relationship with her.

8) The United Kingdom of Great Britain and Northern Ireland has passed an Act of Parliament known as the Gender Recognition Act (q.v.). This provides for the issue to transgendered persons of "birth certificates" which show the person's gender as the opposite of their factual birth gender.

9) If the Act is implemented, no further "decision" would need to be made, for example a decision concerning the applicant individually, nor would any further decision need to be communicated directly to the applicant individually, in order to produce the infringement of his Human Rights claimed herein, as follows.

10) The effect of the Gender Recognition Act is to make the examination of official documents (in particular, birth certificates) an unreliable method of checking birth gender. Such checking of true birth gender is a task which all conscientious heterosexual persons, such as the applicant, are obliged to complete, before that can contemplate or enter into a sexual relationship with someone new in their lives, or contract or consummate a marriage. For a great many women, perhaps the overwhelming majority of them, whom the applicant might meet and to whom he might be sexually attracted during the remainder of his life, no alternative practicable and reliable method of checking birth gender will be available. The Gender Recognition Act has been so drafted as to ensure this curtailment of the applicant's freedom to check birth gender even for purposes connected with his own private and family life, including marriage. The applicant is forced to make this application because he finds this curtailment of his rights intolerable.

11) The applicant therefore apprehends already that the implementation of the Gender Recognition Act would force him either: (1) to abandon immediately those strict beliefs and strong preferences as touching upon his own private life which compelled him in the first place to become the conscientious heterosexual person he is (which abandonment of his beliefs and preferences is not possible for the applicant), or (2) to endure, for the remainder of his natural life (or until the Act be repealed, and all that ensues from its enactment rectified), a drastic restriction upon how (that is to say, with whom) he will be able to conduct his future private and family life, especially any sexual aspect thereof.

12) In particular, the applicant is in peril, because of the Gender Recognition Act, of later in his life "marrying" unawares someone whose birth gender is male. The Act implicitly acknowledges this peril, by providing that in this event the applicant would be entitled to apply for an annulment of any such "marriage" retrospectively, if he discovered that he had been deceived into marrying a transgendered "bride". But the remedy of annulment of any such marriage, after what the applicant would regard as serious and irreparable "damage" had already been done to his private life, by his contracting and "consummating" the said marriage in the first place, would be an inadequate remedy for the applicant in these circumstances, or for anybody else with the applicant's particular beliefs and preferences, or for any other "conscientious heterosexual person". Thus the applicant's future freedom to contract a marriage at all is restricted drastically by the passage of the Act.

13) If, as is clearly possible, the applicant found that the apprehended peril of perhaps marrying a transgendered bride unawares looked more likely than at present to

materialise, more than the relevant limitation period after the implementation of the Gender Recognition Act (which would be the "decision" from which that particular head of damage to his private life ensued), by then it would be too late for him to make application to the European Court of Human Rights in respect of the offending decision, namely the passage of the Gender Recognition Act. Hence (in part) the appropriateness of the applicant to making this application, today.

14) There are similar infringements entailed in the Gender Recognition Act of the applicant's right to ascertain what he needs to know in order to be able to treat the transgendered differently from others, consistently with his beliefs and insofar as far as his private and family life are concerned, in connection with choosing whom he might employ to work, and perhaps to live, in his own home, employed as (for example) a nurse or carer for the applicant or any of his family members.