

PILOT LOSES RULING OVER SEX CHANGE

Appeals Court Reverses Order Requiring Airline to Rehire Dismissed Transsexual

CHICAGO, Aug. 31 (AP) — A Federal appeals panel, finding that civil rights laws do not protect transsexuals from discrimination, has overturned a ruling that ordered Eastern Airlines to reinstate a pilot who was dismissed after a sex-change operation.

The ruling was issued Wednesday in the airline's appeal of a lawsuit brought by Karen Frances Ulane, 43 years old, of Darien, Ill. She sued Eastern over her dismissal in 1981, seeking reinstatement to her \$50,000-a-year job as well as back pay and benefits.

"She is very disappointed" with the ruling, Dean Dickie, Miss Ulane's attorney, said Thursday. Mr. Dickie said he would seek a rehearing of the decision before the full appeals court.

Eastern is withholding comment on the matter until its legal department can review a copy of the appellate decision, a spokesman, Mark Wegel, said in a telephone interview.

Miss Ulane, as Kenneth Ulane, flew 25 missions in the Vietnam War and was awarded an Air Medal. Before undergoing the sex-change operation in 1980, the pilot worked for the airline for 12 years.

In February 1983, Federal District Judge John Grady ruled that transsexuals were protected from discrimination under the Federal Civil Rights Act of 1964.

But the three-judge panel of the United States Court of Appeals for the Seventh Circuit said in its 12-page decision that the civil rights measure did not "outlaw discrimination against a person who has a sexual identity disorder."

"While we do not condone discrimination in any form," the court said, citing the civil rights act, "we are constrained to hold that the act does not protect transsexuals, and this count must be reversed for lack of jurisdiction."

Noting that the 1964 act did not define sex in barring discrimination on the basis of sex, the judges said that if the term "is to mean more than biological male or biological female, the new definition must come from Congress."

Judge Grady said the airline's contentions that the pilot's presence in the cockpit posed safety hazards were "a pretext and sham of the first order," and later ruled that Eastern had discriminated against Miss Ulane because she was a woman.

But the appeals panel rejected that finding also, saying Judge Grady had not made the necessary factual findings to support his conclusion.