

# Lawyers attack credibility of IRS witness in sex-change case

By Mark Pratt, Associated Press Writer | August 23, 2007

BOSTON --Lawyers for the woman who deducted the \$25,000 cost of her sex change operation on her federal taxes attacked the credibility of a high-profile government witness on Thursday who testified that gender identity disorder is not a disease.

The Internal Revenue Service disallowed Rhiannon O'Donnabhain's deduction, claiming that her sex change operation was cosmetic, and not medically necessary.

O'Donnabhain is suing the IRS to get the deduction accepted in a potentially precedent setting case that could affect thousands of people a year in the U.S. who undergo similar operations.

Both sides rested their cases on Thursday before a tax court judge who will decide the case.

O'Donnabhain, 63, said her case is about more than just money.

"I hope this case sends a clear message that transgendered people deserve dignity, respect and equal treatment, not just for our medical care, but in all aspects of our lives, just as every human being deserves dignity, respect and equal treatment," she said outside of court.

Bennett Klein, one of O'Donnabhain's lawyers, pointed out in court that forensic psychiatrist Dr. Park Dietz had submitted what he called "false testimony" in the 2002 trial of Andrea Yates, the Texas woman who drowned her five children.

Dietz told jurors in that trial that an episode of the television series "Law & Order" depicted a woman who was acquitted by reason of insanity after drowning her children. It was later learned that no such episode existed, and Yates' conviction was overturned.

Dietz acknowledged Thursday that he had made a mistake, but said his testimony was "erroneous, not knowingly false."

Dietz testified that for gender identity disorder or any other disorder to be classified a disease, it has to have "an underlying pathological process."

"There are variations in human nature, and these variations are not diseases," Dietz said on the stand.

Karen Loewy, a lawyer for the Gay and Lesbian Advocates and Defenders representing O'Donnabhain, said there is medical consensus that gender identity disorder is a "legitimate serious medical condition."

IRS lawyers were unavailable for comment after the court session.

Attorneys were given a Nov. 6 deadline to file briefs to Judge Joseph Gale. There was no word when he will decide the case.

© Copyright 2007 Associated Press.