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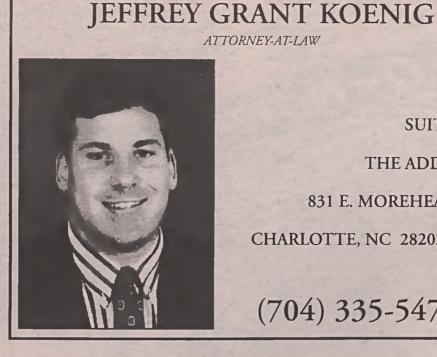
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## Widow's sex change may not invalidate her marriage

by Peg Byron Special to Q-Notes

TOPEKA, KS — The Kansas Court of Appeals ruled that courts must consider a wide range of factors, and not focus solely on sex at birth when judging the legal gender of a person who has had a sex change operation. The ruling came May 11 as the court considered the validity of the marriage of J'Noel Gardiner, a transgender woman, to her husband, Marshall Gardiner, now deceased.

The ruling reverses a trial court decision that said Gardiner's marriage was invalid because she

This decision recognizes ... that some people's sex is not determined by their anatomy at birth.

was born a man. The appeals court gave a detailed review of the scientific literature about transgender biology and psychology and rejected what it called "a rigid and simplistic approach" to defining transgender people.

Said one activist, "This decision recognizes what transgender people have known for a long time — that some people's sex is not determined by their anatomy at birth. It is very encouraging to see this court focus on medical knowledge and the reality of people's lives rather than old-fashioned, narrow notions of what it is to be a man or a woman."

Though a woman for many years and joined in a legal marriage to a man, Gardiner's marriage was, in essence, voided after the fact, when her husband died and her husband's estranged son successfully challenged the marriage in a dispute over the estate. The trial court ruled that

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