

## **Transgendered Couple Indicted in Fraud; Va. Pair Battling INS Over a Visa, Their Marriage**

The Washington Post

September 7, 2000, Thursday, Final Edition

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**Section:** METRO; Pg. B01

**Length:** 669 words

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### **Body**

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A Sterling **couple** who say they have faced official discrimination because both are **transgendered** were **indicted** recently on federal charges of immigration **fraud**.

Katherine Spray, an Irish citizen, was born male but now lives as a woman. Pat Spray, who is American, was born female but now lives as a man. After meeting on the Internet, they got married in North Carolina in 1995 and moved to the Norfolk area. At that time, they applied for a **marriage**-based **visa** for Katherine, now 32.

Four years later, on Aug. 25, a grand jury in Norfolk **indicted** both Sprays on charges of conspiracy to defraud the United States, a charge that carries up to five years in prison. Pat, 44, has also been charged with one count of misuse of immigration documents and with making a false statement to a federal agency, which together carry a maximum of 15 years in prison. Both Sprays are scheduled to be arraigned on Monday.

The grand jury charged that the Sprays committed criminal violations when Pat Spray "falsely concealed" two prior **marriages** on the 1996 **visa** application. Pat Spray also did not tell the INS of using the last names Clark and Martin during the prior **marriages**, the indictment said. The INS learned this spring that one of the **marriages** had never been properly dissolved.

The Sprays acknowledge that Pat failed to disclose the **marriages** on the application. But immigration lawyers not connected with the case say that the INS normally allows applicants to fix such problems after they are discovered.

In the months since the INS learned that Pat Spray was still married to John Martin, the two have successfully petitioned a Fairfax court for a divorce. Martin had remarried earlier. The Sprays went through a new **marriage** ceremony in Fairfax last week.

Both Sprays say they are being prosecuted because they are **transgendered**.

"Bigotry still rules America," Katherine Spray said. "They are gunning for us. . . . Their intent is to get me out of here."

Added Pat, "I'm ashamed of my country."

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Immigration lawyers say it is highly unusual for visa applicants to be prosecuted for fraud for misstatements on an application. Though omissions like the ones Pat made are grounds for denying a visa petition, Congress explicitly permitted the INS to pardon such errors and approve the application anyway, lawyers said.

"People are indicted for lying on immigration documents, but it usually has to be something fairly egregious," said D.C. immigration lawyer Michael Maggio.

Officials with the INS and the U.S. attorney's office said they could not comment on a pending case.

INS District Director Warren Lewis has ordered Katherine Spray's immediate expulsion, according to INS documents. The Sprays want to appeal, but that will become legally impossible if Katherine is convicted of felony immigration fraud.

The Sprays' troubles come at a time when immigration officials say fraud prosecutions are up about 9 percent nationwide over last year.

Katherine, who was born with external male genitalia, has lived as a woman since 1991 medical tests found both male and female chromosomes--two X and one Y--as well as a vestigial uterus. The Norfolk Circuit Court approved a formal name change from Damien Niland to Katherine Spray in 1996.

Pat, who is genetically female but whose blood has unusually high testosterone levels, lived as a woman until the 1990s and gave birth to a daughter in 1980.

Both would like to have sex reassignment surgery but neither has done so.

Pat works for a government contractor, and Katherine, who had a temporary work permit while the marriage visa application was pending, worked at UUNet. Katherine was let go after INS officials informed the company that the temporary work permit was no longer valid, officials there said.

"I've never had a chance to challenge what the INS did to me," Katherine said. "I'm just hoping it'll get in front of a jury and 12 reasonable people will turn around and say, 'INS, you're out of line.' "

## Classification

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**Language:** ENGLISH

**Subject:** IMMIGRATION (91%); PASSPORTS & VISAS (90%); INDICTMENTS (90%); GRAND JURY (90%); FRAUD & FINANCIAL CRIME (90%); IMMIGRATION LAW (90%); MARRIAGE (89%); TRANSGENDER PERSONS (89%); WEDDINGS & ENGAGEMENTS (89%); LAWYERS (89%); CRIMINAL OFFENSES (89%); CORRECTIONS (88%); US FEDERAL GOVERNMENT (78%); CRIMINAL CONVICTIONS (78%); CONSPIRACY (78%); FELONIES (78%); LITIGATION (78%); FALSE STATEMENTS (78%); JAIL SENTENCING (75%); APPROVALS (71%); PETITIONS (68%); PARDONS (67%)

**Industry:** LAWYERS (89%)

**Geographic:** NORTH CAROLINA, USA (79%); UNITED STATES (94%)

**Load-Date:** September 7, 2000