

Submission No: 687

Date Received: 7-8-03

Secretary: .....

31<sup>st</sup> July 2003

Committee Secretary  
Standing Committee on Family Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600

## **SUBMISSION**

### **COURT ORDERS & ACCESS**

My submission primarily relates to custodial Court Orders designed to protect the interests of the child. In my case specific Court Orders that were supposedly designed to ensure that my son would be able to maintain some contact with me, the non-custodial mother.

In reality and over a 13 year period, access has been continually denied by the custodial father. Over that time, due to lack of contact I have been unable to explain the reasons behind my absence to my son. Consequently, I no longer have what could be described as a good relationship with my son, who is now 15 years of age.

I submit that as such, Court Orders not only carry little weight but to make matters worse, any effort made by me to have those original orders enforced has been thwarted by the very Court that instigated them in the first place.

There is absolutely no legal equality as far as a non-custodial parent is concerned. For instance during one attempt to have the orders enforced, the custodial father moved to an unknown address and the court would not proceed. What is the point of Court orders if the Court cannot or will not enforce those Orders. This has been the trend over many years. He has been able to ignore two sets of court orders without penalty and any attempt made by me to have those orders enforced has failed. Furthermore, any attempt I have made has been at my own substantial cost.

Of course it gets worse. As a non-custodial parent, not only has the system failed to protect the interests of my child and contributed to the breakdown of my relationship with my son but, as the non-custodial parent I have, in effect, become a 'prisoner' of the system. Because the custodial parent is 'allowed' to pursue the non-custodial parent when it suits them for child support increases, it leaves the non-custodial parent with what would appear to be 'second class' legal status and with limited rights.

Unlike my ex-husband I take responsibility for my life but if I had any sense I would be on welfare just like him, as there is no motivation for me to work. The more I earn the more I will pay in child support.

How can I get on with my life facing a Family Law system that actually promotes vindictive behaviour due to the biased way it supports the custodial parent in their quest for 'revenge' through welfare dependency and denial of child access for the other parent.

A system that, by application, creates more anger between both parties when a relationship has ended.

A system that is destructive in that, contrary to fostering good relationships between a non-custodial parent and their child it works to keep them apart by supporting a parent who prefers to use the child as a weapon.

There has to be some responsibility for the custodial parent to abide by access orders in return for child support payments. If that is not practical then there should be a 'parental penalty/fine' applied if they fail to allow access. There should also be a receipt system to show that child support is in fact benefiting the child and not the custodial parent.

The custodial parent in this instance is unemployed and has been for some time on a Centrelink pension and I am at his mercy as he uses the situation to maximise his financial status through the welfare system. All this while I struggle to make ends meet and get on with my life by working two jobs while he does not have to do anything approaching employment.

The current legal system offers no motivation for a custodial parent to take some responsibility for themselves and promotes a welfare dependency with assistance from the non-custodial parent through child support and their own Centrelink payments.

## **COURT PLACES FINANCIAL DETAILS IN THE WRONG HANDS**

**Currently, due to an application made to the Family Law Court by my ex-husband, I face the prospect of prison. It is extraordinary that on the one hand he can refuse to follow Court Orders without penalty yet my refusal to follow an order will mean a definite penalty and more than likely, I will spend time in prison.**

His application typifies the system's support for his lack of responsibility. He receives a sole parent pension and has made the application so he can receive an extra \$80.00 a week through Centrelink. He also receives Legal Aid at a further cost to the taxpayer while I, who cannot afford legal representation, am left to the mercy of the court.

As a result of his action, I have been ordered by the court to furnish all my financial details, including bank accounts etc to a man I have not been with for 13 years. A man, who has continually denied my access to my child, and some one who has used the Court to antagonise the situation over many years.

Is it fair that he should after all this time and without upholding is end of the deal be allowed intimate access to my own financial status such as bank account numbers? This is not just unfair it is dangerous, yet the Family Law Court allows this to happen.

By all means I can appreciate the need for accuracy in assessing the level of child support but surely the Child Support Agency, the body responsible for administration, could be also responsible for assessing whether my financial status is an honest estimate without the need for those details to become the property of someone who is now, to all intents and purposes, a complete stranger. I am continuing to refuse to hand over those details and because I cannot afford legal representation I believe that my failure to respond to that order will result in serving time in prison.

Bearing in mind that I have an income of \$100 a week. I have 4 other small children and my new husband suffers a severe disability due to a work accident. I am trying to keep my home business afloat to be around my family, and I now have to work a part time graveyard shift while my children sleep as the financial burden for us is too much. I cannot apply for legal aid and cannot afford a solicitor. I represent myself.

**I appeared on this matter in the Family Law Court in Sydney in July 2003, this matter was transferred to the Federal Magistrates Court. In my response, including a personal letter to the standing magistrate on that day, I asked at least for an address on my son. I still have no address and no contact.**

**Also bear in mind that as a non-custodial mother, I stand up for all fathers and believe in a child's right to equal contact with both parents, to include grandparents.**

I also believe that in divorce, property settlement and future child support should be taken into account at the same time when property/assets are being divided. I know of fathers who have lost most of their assets on divorce and mothers who then refuse to work and use their ex-husband to finance their future lives. Shared parenting and a divorce settlement based on not just distribution of the combined assets but one that also considers the future debit cost effect of raising children before settlement is decided would be a much fairer outcome.

This way at the time of divorce it forces both parents to take equal responsibility for their children. A fairer settlement will also provide some hope for non-custodial parents who often lose the family home at settlement and who are then faced with child support payments and associated access problems and who ultimately cannot get on with their lives.

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