

AFFIDAVIT

In the matter of Magill v Commonwealth of Australia (CSA)

Victorian County Case : CI – 05 – 01722

I, Geoffrey Frederick HEAVISIDE, retired Welfare Rights Advocate, of 39 Michael Street RYE, in the State of Victoria

make oath and say –

1. That I am a semi retired Welfare Rights Advocate who provided counselling and support services to custodial and non custodial parents and their children from the proclamation of the Family Law Act of 1975 until the year of 2005
2. That my involvement in earnest with the issues of Non Custodial Parenting and Child Support occurred very early after the proclamation of the Legislation after a client referred to the Service for assistance discharged a firearm into his mouth when the Deputy Director of the Child Support Agency notified him of an Attachment Order on his protected Superannuation. At that point he had lost his home, his marriage, his business and effective contact with his children. What made matters worse was that the Deponent was threatened with contempt at the Coronial Inquest when he tried to advance evidence as to what precipitated the actions of the deceased.
3. That in 1999 while volunteering at a Support Group called Fathers For Family Equity Inc in Melbourne I first met one Liam Magill and his Support Worker Cheryl King. Liam sought and was granted counselling sessions from

that meeting and this support has continued to this day which is a period of just over 7 years.

4. That in the passage of time to date Mr Magill suffered injustice after injustice from his Child Support Assessments that were flawed for most of the time as he sought to be a responsible parent to three children whom he initially thought to be his own.
5. That the first such devaluation of his role as a parent occurred when he was awarded shared contact on Christmas Day in 1992 when the children were residing with their mother at the 8000 acre property at Sealake, the home of their maternal grandparents as he sought to fulfil his contact obligations by visiting the children there. When he arrived at the property he was informed that he was not welcome inside the house and a relocatable caravan had been sited for the purposes of one afternoon's contact visit as per a Family Court Order. This reinforced a very negative impact on his role as a parent and his self esteem. This recollection was still vivid in Mr Magill's mind at the time of the first counselling session in 1999.
6. That the first instance of administrative neglect and a corresponding over deduction of a public service salary attachment occurred when a property settlement and spousal maintenance claim by his former spouse necessitated a draw-down of his Superannuation. This draw down occurring in a lump sum in

one taxation year artificially elevated his income and caused a calculation error that resulted in a deduction of more than 50% of his wage entitlement leaving him destitute. The Child Support Agency claimed that it was authorised and entitled to use that figure despite the fact that 6 months later a Senior Case Officer found a way to reduce the Order for the support of three children based on an artificially elevated income for which Mr Magill had effectively received no benefit. Had it not been for the tenacious support offered to Mr Magill by Ms King, Mr Magill would not be here challenging his right to be protected from Paternity Fraud.

7. That by 1995 Mr Magill became fairly convinced that probably one of the three children who formed part of this Order for Child Support were not fathered by him and one of the reasons came from an alleged taunt by his wife during a matrimonial altercation and some diarised evidence he discovered. It took five years for the Family Court to formerly order paternity testing (2000) From 1999 the Child Support Agency accorded him no consideration to the continued over-deduction determining to rely on presumption of paternity as the easiest legal course of action. Significant arrears had also accrued which were growing with the attachment of late payment arrears charges even though the Child Support Agency were aware that his income was significantly different in practice from the figure on which they had made their determination. This was provided to them in a constant barrage of salary statements by Ms King on Mr Magill's behalf. At this time Mr Magill was still

trying to remain involved in his employment, albeit on much lighter duties, due to his inability to function emotionally and physically in the workplace.

8. That by September 2000 the Child Support Agency had been formerly advised that Court ordered Paternity Testing revealed that two of the three children were not fathered by Mr Magill.

After the shock and horror of that realisation Mr Magill took a reasonable view that this would review his liability for continuing payments of Child Support and that a back dated adjustment would occur. The CSA were advised of the identity of the biological parent of the other children and Mr Magill confidently believed that a retrospective adjustment of his liability would occur based on Orders that could now be proved to be flawed and he would then be entitled to a refund of over collected Child Support payments or at least bring his account into credit towards the ongoing liability to the one child for whom he was the actual liable parent. He had high hopes that now he could move on with his life and put the pain and suffering behind him.

9. That history, and volumes of documentation sighted by the Deponent, acknowledges that no such action was taken for reasons of disadvantaging the custodial parent and the children yet despite the putative biological parent of two of the children having significant means to honour his responsibility no action was taken to pursue this avenue and thus avoid the so called

disadvantage, and that this state of affairs devastated Mr Magill to the point where he became physically and mentally unable to even take care of the normal daily routines of living and he was invalidated out of the Public Service and placed on a Disability Support Pension.

10. That to date no consideration has been given to applying the correct proportions of child support liability to the respective fathers and at each and every time Mr Magill has a Taxation Assessment, attachments of any refunds continue to be made, due to the file on this over taxed parent never having

been closed and withdrawn from the Child Support withholdings system.

11. That it is the considered opinion of the Deponent that Mr Magill is a citizen whose universal common law rights to fairness and honesty have been consistently and wilfully compromised by a System that is long overdue for judicial review and is seen to be supportive of Mr Magill in his present Action and I make this deposition believing the same to be true from memory and from the file notes taken at the time.

Sworn by the Deponent, Geoffrey Frederick Heaviside

On 6th August 2006 at Keilor Downs Police Station

(Signature of the Deponent)

Before me: