



The Coalition of Fathers and Families NY, Inc.  
The NY affiliate of the American Coalition of Fathers and Children

*“Working to Keep Fathers and Families Together”*

Volunteer Family  
Advocates

New York State:

Mr. James  
Hays,  
FaFNY President

Mr. Randall L.  
Dickinson,  
Vice President

Mr. David  
Mysliwicz,  
Treasurer

Ms. Debby  
Fellows,  
Secretary

National:

Dr. Stephen  
Baskerville  
ACFC President

Mr. Michael  
McCormick  
ACFC  
Executive  
Director

## A Child Support Success Story?

By James Hays, FaFNY President

The government likes to report “success” stories, especially those where they are successful in solving a “problem”. The “problem” is often defined by the particular government agency as is the “solution”. Further the “success” of the “solution” in repairing the “problem is defined by the same people. Inside government there is supposed to be a check and balance between the three branches of government, the legislature, the executive and the judicial. A law is passed by the legislature, regulations are put in place by the executive branch to enforce the law and the judiciary provides oversight against abuses. If these three branches begin to operate in collusion we like to think that the popular media, championing the first amendment, is there to hold the government accountable. Abuses will surely be brought to the attention of the electorate and they will hold government accountable. With all these checks and balances the system surely can’t operate in a biased manner. Or can it?

Thomas Murphy (not his real name) called FaFNY looking for help. It seems that he was \$2500 in arrears on support and a Family Court Judge had sentenced him to 6 months in jail served on weekends, almost 2 years in jail. *My ex had “custody” of our three children, Tommy Jr. (now 16), Eddie (now 15) and Kathleen (now 12), Tommy said. But right after we divorced I began taking the kids 3 to 4 weekends a month and half of the summer. I coached baseball and hockey with them, I paid for their school club activities like ski club and bought all their school clothes. In addition I paid all the child support ordered. A couple of years ago Tommy Jr. began living with me and Eddie spent most of his time here also. I was earning 17 dollars an hour working for an oil company but I lost that job because I had to take care of the kids when my ex just dropped them off at work one day. I got a job with an electrical company but it only pays \$10 an hour and has no health insurance. My take home is \$160 a week, the same as is taken out and sent to my ex which is 55% of my pay. She lives with a guy and his two kids (he receives no child support) in a 5 bedroom house they just bought. She receives unemployment, is attending college, gets all the tax deductions for the kids, receives subsidized health insurance and doesn’t have to claim his income. I live in an apartment in Albany. I have no health insurance and neither does Tommy Jr.*

*I was falling behind because I was still spending money directly on all the kids, he said. I wanted to move to Georgia with Tommy Jr. I could live with my parents until I found a better paying job with benefits and if Tommy Jr. maintained a “B” average in high school he could go to college for free. My ex refused to let me move so I found a Lawyer and paid him \$2500 as a*

FaFNY.org (518) 383-8202 PO Box 782 Clifton Park, NY 12065 [fafny@fafny.org](mailto:fafny@fafny.org)  
ACFC.org (800) 978-DADS 22365 El Toro Rd. #335 Lake Forest, CA 92630

*retainer. He said he would “whip my ex wife’s lawyers fat ass”. When I got into Family Court the Judge told my Lawyer to “shut up” when he began to speak but let my ex’s Lawyer go on for an hour. The Judge denied my petition to move to Georgia with Tommy. I also had a petition in to reduce my child support based on the \$10 an hour I was making. The Judge ruled that I reduced my income “on purpose” and ordered child support at the same level. When I said I can’t possibly make these payments he stated “just go and get another job”. I don’t think my Lawyer fought very hard for me, he said. The retainer was used up right away and he had another case in front of this Judge with that other Lawyer and I think he sort of gave up on my case.*

*I straightened out the Jail thing, Tommy said. My parents took out a loan and paid the \$2500 back support. I can’t afford the child support so I’ll just have to move into a smaller apartment with Tommy Jr. I have to try to work other jobs and maybe some overtime, but there isn’t much of that. I’ll have to stop spending time with the kids so I can work and I’ll have to stop buying them stuff they need, even the food and clothes.*

I told Tommy that I wanted to use his story and run it in the newsletter and he agreed. I then received an E-mail from his mother in Georgia. The E-mail stated;

*Jim told me there was to be an article in the newsletter regarding his plight and I hope you don’t mind if I bend your ear a little more. I’m sure many of these stories sound alike and all blend into one for you at times but, to put it bluntly, Tom has been screwed by the Capital District (Albany) Family Court at every turn. Just so you know, much of what I relate is first hand information as my husband and I were living in NY when Tom first became separated and he lived with us during the first year. While the reasons for the divorce have never been contested, the fact remains that Tom has always been a good father and enough is enough. He now finds himself about to be evicted and forced to live in substandard housing in Albany with his son (Tommy Jr.) while his ex wife uses the system to support her claims. She presently lives with a man that has his two children living there. She has been layed off and does not work. She does not have to claim any income except for her unemployment and so, while she and her friend have just purchased a nice home and she attends college, she is still presented as living in abject poverty.*

*During the first two years of the separation Tom picked all three of his children up three weekends per month. They came to my home each of these weekends and I was appalled at the condition of them and their clothing. Their bodies were dirty, their clothes dirty and grey and they were hungry. Jim would bathe them, wash and bleach their clothes, take them for haircuts, cook and feed them and return them Sunday night. They would be sent the following Friday in the same condition. The little girl’s hair was frequently matted and her scalp crusted and they often were sent with no shoes, underwear or socks. He or my husband and I have bought the bulk of the*

*clothing the children have had and their father had provided all of the recreation and toys and games they have enjoyed. Their mother has consistently told them to ask their father for any and all clothes and necessities such as eye glasses etc. In 1996 Tommy's daughter Kathleen, then 8 or 9, was sent to her Uncles wedding so filthy that it took me hours to get her hair clean and to remove pierced earrings that had corroded and were completely stuck in her ears. Tommy spends every cent he has left from his paycheck each week- most of it on groceries. He cooks good meals on the weekends and the children eat everything in sight.*

*Tommy has tried to have his support payments reduced but the Court has not seen fit to hear any of his arguments. This last appearance was the crushing blow as his attorney stood up to speak and the Judge told him to "sit down" but allowed her attorney to rant and rave and state that Tommy has been a "rotten father". **Unfortunately, the children are the sufferers here and no one has asked them what kind of dad they have.** The sad part is that at some point in time these kids will grow and will realize what is happening. I have already seen this in Tommy Jr.*

*My husband and I are not wealthy by any means-we both work and have nothing put aside for retirement. I am a registered nurse and work in hospice from 3-11 daily. I also have my 88 year old mother living here and I take care of her. We have offered to have Tom and Tom Jr. come here and share our home as we really can't afford to support him up in NY (pay his rent etc.), but the mother has refused to allow him to take Tom Jr. out of State even if it means a better paying job. Tom Jr. has advised his Law Guardian he really wants to come. Since Tom Jr. is 16 ½ years old I have a question as to when he will be allowed by law to decide for himself where he lives. A lawyer has told Tom that if he leaves the State with Tom Jr. the Judge will issue a warrant for his arrest and bring him back even if he is paying his child support. Could you enlighten me on the NY State Laws?*

*There is much more to this saga but I fear it would be too hard to write. One thing I want to mention is that Tom's ex-wife has epilepsy and wants this fact hidden as she drives a car. She forbid the children when they were small to call for help when she seized and they sat and watched her helplessly. Within the past year she suffered a seizure in the store and awoke on the floor. When she realized that the store was calling 911 she jumped up and dragged Kathleen from the store and got in her car and drove home. Medically, in any post-dictal state a person is not safe to drive a vehicle.*

*Tom Jr. is in his father's custody because he and his mother got into an argument and she scratched and hit him and dropped him off at his father's house at midnight. This was in 1988 I believe. There is a police report but Tom never took her to Court for the child's sake.*

*Please I implore you, keep talking to Tom and give him some kind of sound advise. If there is anything you can do to help him and stop this endless persecution, I would be grateful.*

*Thanks again for your ear. Irene Murphy.*

My advise to them is: In New York State there is no shared parenting statute. In terms of child custody; whether in out-of-wedlock births or after divorce/separation, there is one parent is termed “custodian” (CP) and the other “non-custodial” (NCP). And as the saying goes, “to the winner goes the spoils”. This is also true in child custody. The “custodial” parent (CP) “wins” total control of the offspring and the benefits that go with it. The “non-custodial” parent (NCP) loses their parental rights and is reduced to a “visitor” in their own child’s life, but maintain their parental responsibilities, especially monetary responsibilities. Any expenses incurred by the “non-custodial visiting” parent, including direct expenses such as child-care and medical expenses, are not included in “child support”. There is no accounting for the dollars that are spent on the child by the CP from their income or for the “child support” they receive from the NCP. Child support is based on “ability” to earn and not on actual income of the NCP. If arrears should accrue they can not be reduced regardless of the reason they accrued. The only accounting of “child support” is the dollars that are paid from the “NCP” to the “CP”. The “success” of the system is based solely on assessing a high amount of child support to be paid by the NCP to the CP, collecting the amount ordered from the NCP and sending it to the CP and collecting any arrears from the NCP. There is no measure of success as it relates to children, whether financial or emotional support by either parent.

The only effective thing to do is to change the system and make it accountable to children. Unfortunately there is a large bureaucracy which is reluctant to do so.