

**NOTE: PURSUANT TO S 169 OF THE FAMILY PROCEEDINGS ACT 1980,
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO
11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER
INFORMATION, PLEASE SEE
[HTTP://WWW.JUSTICE.GOVT.NZ/COURTS/FAMILY-
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**IN THE FAMILY COURT
AT CHRISTCHURCH**

**FAM-2015-009-001467
[2016] NZFC 2442**

IN THE MATTER OF THE FAMILY PROCEEDINGS ACT 1980

BETWEEN BRUCE HAWKEY
 Applicant

Hearing: 22 March 2016

Appearances: A Beaumont as Lawyer to Assist

Judgment: 22 March 2016

ORAL JUDGMENT OF JUDGE N A WALSH

[1] In the Christchurch Family Court I am dealing with an application under s 47 of the Family Proceedings Act 1980 by Bruce Hawkey aged 76 years for a paternity order.

[2] The Court appointed Ms Alexandra Beaumont as counsel to assist and she filed a report on 22 March 2006 which was most helpful. At today's hearing Mr Hawkey was present together with his wife, Noeleen Hawkey, and he confirmed the contents of his affidavit and shared with the Court his family history.

[3] In short Bruce's older brother Ivan Hawkey was born on 24 October 1934, has the name of his father, namely Edward Roy Hawkey registered on his birth certificate. It appears that Ivan and Bruce have shared a long interest in the family geneology, there was as Mr Hawkey described a "link in the chain" and it was his evidence that, "I had to do something about it."

[4] Edward Roy Hawkey and Bruce Hawkey's mother separated and in 1946 Bruce Hawkey's mother and the four boys moved from south Auckland to Wellington where Mrs Hawkey received financial support from an older brother and she also worked for six days per week as a domestic help in rest homes. Mr Hawkey recalled that it was "very painful" for his mother as the children's father Edward Roy Hawkey simply disappeared from their lives.

[5] I am satisfied upon the balance of probabilities, in particular the DNA test results of 14 July 2015 that the late Edward Roy Hawkey is the father of Bruce Hawkey.

[6] Ms Beaumont in her report pointed out that pursuant to s 49 Bruce Hawkey is time-barred from bringing an application under the Family Proceedings Act 1980 for a paternity order. Therefore the Court of its own motion, taking into account the provisions in Rule 3 Family Court Rules 2002 amends Bruce Hawkey's application to be an application pursuant to s 10 of the Status of Children Act 1969 for a declaration as to paternity.

[7] I find on the evidence that Bruce Hawkey is an “eligible person” pursuant to s 10(1)(b) of the Act and I am satisfied on the balance of probabilities that it is appropriate to make a declaration that the late Edward Roy Hawkey is the father of Bruce Hawkey.

[8] I thank Ms Beaumont for her endeavours to date, in particular the fact that she is prepared to do some further pro bono work to ensure that the Registrar General of Births, Deaths and Marriages amends the birth records to show that Bruce Hawkey’s father is the late Edward Roy Hawkey.

[9] Therefore I recommend that the Registrar General forthwith amend Bruce Hawkey’s birth certificate records to show that Edward Roy Hawkey is his father.

N A Walsh
Family Court Judge