Year: 2026 **Vol:** 01 **Case No:** 28

Categories: domestic violence; alcohol; violence against children alleged; family law proceedings pending

Barring order refused; Safety order granted; Access application adjourned

A woman applied for a barring order against her ex-husband in a District Court in a rural town. An interim barring order had previously been granted to the applicant woman, and the full barring order application was in for hearing.

Both the applicant wife and her respondent ex-husband appeared in Court. The applicant was represented by a solicitor and barrister from the Legal Aid Board, and the respondent was represented by a solicitor.

Applicant's evidence
In her evidence, the woman told the judge that they had been together for 20 years and married for 15 of those, and they had four children together. She indicated that they began to live separate lives at the beginning of the previous year. She told the judge that her ex-husband's alcohol consumption had increased, what was once only a couple of pints had become more, and the ex-husband was also prescribed anti-depressant medication.

Applicant: "His mood was OK when he was drinking but the following day, he would be in a bad mood and quick to anger. He also would have shouted at our children".

The woman told the judge about an incident in November 2025 whereby their daughter, who had a medical condition, became wheezy at home with the father. The had not been present initially and when she returned home, the respondent left the woman with their daughter, whom she then brought to the hospital, where she was subsequently admitted to ICU. The woman told the judge that when she went to tell her ex-husband where she was going, he was asleep after consuming alcohol.

The woman said that the respondent had not come to the hospital to visit their daughter.

She gave evidence in relation to a later altercation between the man and their teenage son which she believed was an escalation of his behaviour. She said that there was pushing and shouting by the respondent towards their son, that the respondent was aggressive and she had to ask him to stop his behaviour.

A further incident occurred where their children told the applicant that they had been in the car with the father, who they said was driving erratically, and they told the mother that they had been very worried.

The solicitor for the ex-husband objected to this and stated that this was hearsay evidence if the children were not in Court to confirm this. The judge stated that she would apply the appropriate legal test to the weight of such evidence, and the applicant could continue.

The woman told the judge that another incident occurred shortly after, where she heard shouting between her ex-husband and their son. She said there had been a standoff between them. She stated that her ex-husband had been trying to take their son's phone from him, they both were on the ground, and the respondent had had his knee on their son's chest.

Applicant: "Our two daughters were in their bedroom with the covers up over their heads, and our other daughter was afraid to come down. Our children told me they were terrified of him, and they never knew what his mood would be like."

The woman said one of their daughters had a tightness in her chest, the respondent's solicitor objected to this and stated there was no medical evidence before the Court to support this. The woman further referred to an incident where she alleged she had been pushed by the respondent.

In cross-examination, the respondent's solicitor told the woman that it was only recently that issues had arisen, and that up until then, both have had a long and happy marriage, with no issues arising. The solicitor said that her client had been in counselling for some time due to a family death and that her client had been an active father in the past.

The solicitor stated that her client's evidence would be that he had only become aware of their daughter being in hospital after he had read a text from the applicant the following morning, and that in relation to the other incidences that she had outlined, her client would say that they were either inconsequential, did not happen or he did not remember them. The woman rejected this.

The solicitor said that her client would say that he accepted a tussle happened with their son, but that he rejected the allegation he had his knee on their son's chest. He would say that this incident had been exaggerated by the applicant. It was more a difference of opinion on a disciplinary issue, and her client had been taking the son's phone from him to discipline him.

Respondent's solicitor: "This is a difference of parenting styles and not domestic violence".

The woman rejected this.

Respondent's evidence

The respondent was then called to give evidence, and he confirmed the applicant ex-wife and himself had been together for 20 years and married for 15 of those, and that they had four children together.

When he was questioned by his solicitor about his drinking, he stated that he drank two glasses of wine per night, typically on a Friday and Saturday night, he also confirmed that he was prescribed mild anti-depressant medication, which he had been taking for a few years. He told the judge that he also attended counselling regularly.

When questioned about the incident where his daughter was hospitalised, he said, "I felt that I got stuck in a trap." He said that his daughter had been playing with animals and that

when she had gone into the house, she became wheezy and that this continued until his ex-wife came home. He said that after giving his daughter her inhaler, “I left them both to it”.

He only found out the following morning, he said, after receiving a text from his ex-wife, that his daughter had been brought to hospital. He said that he did not visit his daughter in hospital as he was at home minding their other three children after taking time off work and could not leave them. He further stated that the applicant had told him not to visit.

With regards to the car driving incident, the respondent denied this and said that he had driven home at a normal speed and he told the judge, “I would never drive recklessly.”

He also denied shoving his son but admitted that he did try to take his son’s phone and devices to discipline him, but rejected that he was on top of him or that he had his knee on his chest. He said that when trying to get his son’s phone from him, they had both fallen over onto the couch. He said, “It was nothing like his mother described and if I did have my knee on his chest, at 14 stone, there would have been evidence”.

He also denied that he had pushed his ex-wife.

The respondent told his solicitor that the atmosphere in the house was tense due to the end of their marriage, they both had attended counselling and mediation, which was unsuccessful. He said: “We have different parenting techniques, I'm the bad cop and she's the good cop”.

In cross-examination by the applicant’s barrister, the respondent again denied that he had pushed his son. The barrister questioned him on his alcohol consumption when taking anti-depressants. The respondent denied that his drinking had escalated.

Barrister: “Should you be drinking when taking anti-depressants?”

Respondent: “I asked my doctor this and he said it was OK to have a social drink in the evening if I am taking my medication in the morning.”

The respondent was cross examined about the incident with his son and told the judge, “I was reaching into his pocket to get his phone and between the two of us, we both fell, I didn’t push him.”

The respondent had referred in his evidence to him frog marching his son, the applicant’s barrister questioned him on this.

Barrister: “Is frog marching your son not a bit over the top?”

Respondent: “It was a loss of patience, not of control”.

Barrister: “Why should your children and ex-wife feel safe in light of the recent incidents described today?”

Respondent: “I am not a physical person. What happened with my son, I am not happy about, but it has been the only incident in 20 years.”

Barrister: “So you are saying that there is nothing in your behaviour that has caused your ex-wife to apply for a barring order after 15 years?”
Respondent: “I didn’t say that, but there are two of us in the relationship and both of us had responsibilities”.

Judge’s decision
After hearing the evidence, the judge stated that an interim barring order had been granted in 2025. She stated that she had taken the evidence of both parties into consideration, and that after being married for 15 years the relationship had broken down.

She stated that the respondent’s drinking had exacerbated the breakdown of the marriage and that in such a situation, the parties needed to keep a clear head and that it was not an appropriate environment for their children to live in.

The judge stated with regards to the application for the barring order, the threshold required was not met.

Judge: “Section 5 of the Domestic Violence act sets out the circumstances that I must consider when deciding whether to grant one or not. I am going to instead grant a safety order for two years to cover any family law proceedings in the Circuit Court to end the marriage.”

The judge further stated that given the current acrimony in the house, it was not ideal that the respondent father returned to the house, however, as she was not granting a barring order, she told the legal representatives that she would rise to let both parties discuss this.

When the judge returned, she was advised by the father's solicitor that it was not her client’s intention to return to the family home, but he was homeless and was currently looking for permanent accommodation. She told the judge however, that her client would like to text his ex-wife about the children.

The applicant’s barrister responded that the applicant had been granted legal aid representation for her barring order application, but that she had not yet been approved for legal aid to enable him to act for her in the respondent’s access application, which was also listed before the Court that day. In those circumstances, the barrister said that he was prohibited from making any comment to the Court about access until he had been formally instructed, and this required legal aid approval.

The judge said she would allow respectful texts to be sent to the applicant by the respondent, to check on the welfare of their children, as part of the safety order terms. The respondent’s access application was adjourned for a month and the applicant’s solicitor stated that she would ensure that her client’s access legal aid application was processed in advance.

The judge advised the respondent that the safety order she was granting prevented him from using or threatening to use violence against the applicant and their children, she said she was not going to include a term preventing him from watching or besetting the family home given the upcoming access application.