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Categories: domestic violence; non-appearance of respondent; addiction; limits of barring order; need for family law proceedings; self- representation; father in prison

Barring order granted following expiry of earlier order, family law proceedings urged

A judge in a regional District Court granted a barring order for six months following the expiration of an earlier three-year barring order. The parties were married and had two children together who were no longer dependent.

The applicant wife was present in court and represented herself. The respondent husband was formally called and there was no appearance by him. The judge asked the wife if she would prefer to go and get a solicitor. The wife said that she was trying to get legal aid for a judicial separation from the husband, but she had been refused legal aid, and she had appealed this decision. She confirmed that she was happy to go ahead with the hearing of the barring order application.

The wife said she had been granted a three-year barring order which had expired the previous week. She said they were not living together and she was petrified of him. She said he was an alcoholic and an addict, and he was very aggressive.

Judge: “When was the last time you had any contact with him?”

Wife: “I haven’t had any contact with him since the interim barring order was made. He breached that once and I called the Gardaí, and I think he spent the night in the police station. I haven’t heard from him since, but I know he hasn’t changed as my daughter tried to keep up contact with him and she said he hadn’t changed. My daughter told me that he was raving mad and indignant that I had reported him for breaching the interim barring order.”

Judge: “I cannot accept hearsay evidence. Is your daughter here to give that evidence?”

Wife: “No, but I have a statement from her, and I have a letter from my doctor.”

The judge read the doctor’s letter. She asked the wife why she wanted another barring order. The wife said that having a barring order in place was the only way she felt safe. She said she had a lot of ailments, and these were exacerbated by the stress and fear she was in. She said she was sure he would abide by a barring order as he knew that she would call the Gardaí if he did not. The wife said she was in total fear of him and she had nightmares.

The judge asked her if she owned the family home with the respondent. The wife said it was in joint names and he was now living in his deceased parent’s home. She confirmed that he had turned up to the barring order hearing three years earlier and he did not have a solicitor at that time.

The judge granted a barring order for six months. The wife expressed her displeasure and said she had wanted a barring order for as long as possible. The judge said the wife could not use the remedy of a barring order indefinitely, and she advised her to try and get legal aid and/or a solicitor to get the family law proceedings up and running. The judge ordered the barring order to be served by the Gardaí at the place where the husband was living.

Safety order granted where respondent in prison

The judge in the same Court granted a safety order for an mother where the Court had granted a protection order some time before. The parties were no longer in a relationship together and had one pre-school aged child.

The mother represented herself and the father was not present in court. The mother said she did not know where the father lived anymore but she knew that he was in prison. She said he had only gone to prison recently and she did not know how long his prison term was.

The mother gave her formal evidence. She said the father's grandmother also had a safety order against him. The mother said that the child's father had attacked her a number of times, most recently one month earlier. She said he bit her face and attacked her with a weapon. The mother showed photographs of her injuries to the judge. She said she did not go to the Gardaí because the father had then attacked himself with the weapon. The mother said that she wanted the safety order for as long as possible.

The mother confirmed that she was not living with the father. She said she was living in a refuge for survivors of domestic abuse, and she was getting a lot of help from the people who ran it. She said the father had not seen their child since the protection order had been granted.

The judge said that she was satisfied that the threshold had been reached for a safety order. She said that these were very serious injuries, and she granted the safety order for five years. The judge included the parties' child in the order.

The judge explained to the mother that the safety order prevented the father from communicating with her except by text message and only in relation to access to the child. The judge directed that he be served at the prison, and she directed that if the summons was returned to the court office, it would be served on him by the Gardaí.