



Neutral Citation Number: [2020] EWHC 1525 (Admin)

Case No: CO/261/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11 June 2020

Before :

MR JUSTICE FORDHAM

Between :

TOMAS KUBIK
- and -
DISTRICT COURT IN KROMERIZ, CZECH
REPUBLIC

Appellant

Respondent

The **appellant** in person
The **respondent** did not appear and was not represented

Hearing date: 11 June 2020

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus semi-remote hearing.

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down are deemed to be 11th June 2020 at 10:30am

MR JUSTICE FORDHAM :

1. This was a renewed application for permission to appeal in an extradition case. I sat in the courtroom, where there was an interpreter. The appellant appeared in person, by video link from custody. The hearing and its start time were published in the cause list. An email address was given for anyone who wished to ask permission to observe the hearing. There was a BT conference call set up, and a phone in court, so that people could listen to the hearing, if they wished to do so. That facility was used. I am satisfied that this constituted a hearing in open court, that the open justice principle has been secured, that no party has been prejudiced, and that insofar as there has been any restriction on a right or interest it is justified as necessary and proportionate.
2. The appellant is 35. He is wanted for extradition to the Czech Republic. Extradition was resisted on article 8 human rights grounds. That happened before the district judge at a hearing which led to a judgment on 21 January 2020. It was maintained before Mrs Justice Eady who refused permission to appeal on 13 March 2020. The same human rights resistance of extradition is relied on before me today. I have had the advantage of reading the documents, including a skeleton argument written by Counsel on 20 March 2020. This is a case where the appellant appears in person. His solicitors and counsel came off the record and withdrew from the case. That was the subject of an order by Mr Justice Swift on 24 April 2020. He ordered that this application be relisted for a date after 8 June 2020. And he recorded that the appellant's solicitors would communicate with the appellant as soon as possible.
3. The appellant has addressed me today, through the interpreter. He has addressed me courteously and clearly and he has put before the court several points that he wished to make, which he has asked me to consider, and which I have considered. The first point he raised was whether he could have an opportunity to be represented by lawyers today or at a later hearing. That is not an opportunity that is now available to him. He has previously been represented. I have the arguments that were put forward by those representatives, and I have considered those arguments. There is no basis for further time to try and get legal representation.
4. The next point raised was whether to allow further time so that documents could be put before the court. I am not prepared to adjourn this case to allow that opportunity. What I was able to do was to find out what the documents are. The appellant was able to show me them on the video-link screen but of course I could not read them. He was able to describe their contents to me, through the interpreter. He tells me that the documents show that there is a new address where he could live. He tells me that the documents show that he has a promise of employment and a new job that is open to him. And he tells me that there are materials that support what he says about contact with his daughter: he says he is in regular contact with his daughter and they send each other pictures. I accept all of that from him. I accept that there are documents to support everything that he has told me. I proceed on the basis that there are those documents and it is not necessary or appropriate to adjourn this case so that those documents can be put before me.
5. The appellant has been in the United Kingdom since January 2018. He has no convictions in the United Kingdom and he was at liberty here between January 2018 and his arrest on 8 November 2019. He has a relationship and family bond, in particular with his daughter who is aged 8. She was born in the United Kingdom in December

2011, after her mother came to the UK in 2011 when pregnant. The appellant has addressed me today as to the basis on which he says he should be allowed to stay. He says that he has promised his daughter that he will never leave her again. He says that he wants to be able to serve his sentence in the United Kingdom, close to his daughter, and not in the Czech Republic. He tells me that he had a history of drug use in the Czech Republic. He says he came here to pursue a new life. All of these are matters that have been relied on in this case before me today, and I will consider them today.

6. The appellant added one further matter today. He said today that he is ‘in fear of his life’. He says that there are people in the Czech Republic who ‘did him no good’. That was not something that was relied on before the district judge. It was not something that was relied on before this court in the documents put before the court. It is not described in the proofs of evidence he has put forward. It is not said to be the subject of any document or material that he wants to put before the court. I cannot accept that there is any proper basis for a conclusion that extradition would put the appellant at ‘fear of his life’. Nor can I accept that there is any arguable basis on which it can be said that the authorities of the Czech Republic would fail to take the human rights protection steps that the law of human rights would require of them. There is no proper basis in my judgment on which ‘fear of his life’ can now constitute a proper ground of appeal. The point has all the hallmarks of being one raised at the last minute, in an attempt to resist extradition. I turn to the other features of the case.
7. At the oral hearing before the district judge there was live evidence and cross-examination. The district judge was troubled by the different versions of the story that the appellant had given in various different documents. The judge did not believe the appellant and did not think him a reliable witness. The judge did not accept that there was an established “family unit” with the partner and daughter. There is an unsigned ‘proof of evidence’ from the partner. It says that she and the appellant lived together from January 2018 here in the UK. Prior to that everybody agrees that the partner and mother of the appellant’s daughter had been in different countries. The appellant came to the UK at the beginning of 2018. The partner had come here in 2011, and the daughter had been born here in December 2011. The partner’s proof of evidence says that she and her daughter relied on the appellant financially and for parental support. She says that she is now on benefits. And she describes the position of her daughter. The mother says that the daughter would be ‘very upset’ if the appellant were extradited, and that the daughter ‘has loved having him with us’. The partner says that if the appellant is extradited, life ‘will be difficult’ and she is ‘not sure whether she will be able to support herself and her daughter’. As I have already said, the appellant has told me today about a strong bond with his daughter and contact regularly between them and he has told me that he has promised his daughter he would never leave her again.
8. The district judge is the primary decision-maker in an extradition human rights case. The district judge is required by the law to conduct a ‘balance sheet’ exercise and take into account all the circumstances and considerations, and to decide whether the public interest in favour of extradition is outweighed by private or family life considerations on the part of any person including a child. Refusing permission to appeal on the papers, the judge (Eady J) concluded that the district judge had approached this case lawfully and properly that the judge said that there was no reasonably arguable basis for an appeal.

9. I have considered carefully all of the materials, including what I have been told this morning. The appellant has told me that he leaves matters to me to consider but wishes me to take into account what he has said this morning. I have done that. I approach the matter on the basis that there is a relationship with the daughter, that that is important to the appellant, and that it is important to the daughter. The district judge also approached the case on that basis. The district judge decided that the balance came down firmly in favour of extradition. He took into account that the appellant has been here for what was then 24 months and that the appellant had not been charged with or convicted of any offence here in the UK. He approached the case on the basis that the appellant has a family life. The district judge said this:

“He appears to have a family in the United Kingdom. I certainly work on that basis. However, that family has lived in the United Kingdom for many years without any support from the requested person [the appellant]. There is no reason to believe that that situation could not continue if the requested person was extradited. Whilst his daughter now appears to know him as her father (having described him as ‘uncle’ when he first arrived, he said) and has established an emotional relationship with him, the family life cannot be described settled or established. Any hardship caused to the family could not, on the evidence before me, be described as exceptional or significant. At its highest, it would be the hardship ordinarily caused by extradition”.

10. It was open to the judge to assess the case in that way and to reach the conclusions that he did. I can see no reasonably arguable basis of overturning the judge’s decision. In my judgment, the judge’s conclusion was plainly correct. The strong public interest considerations in favour of extradition are not outweighed by the private and family life considerations. This case involves a conviction warrant and a 5 year prison sentence. 4 years and 351 days are unserved, subject to the deduction that will arise from the fact that the appellant has been on remand since his arrest on 8 November 2019. The underlying offences are 79 incidents of the supply, or possession with intent to supply, of methamphetamine between January 2013 and August 2015 in at least 6 towns in the Czech Republic. Moreover, this is a case in which the judge found as a fact that the appellant left the Czech Republic as a fugitive. The private and family life that have arisen in the 2 years which he was in the United Kingdom, the reconnection with his daughter, his wishes and her interests, and any promise that has been made by him to her, are wholly insufficient to outbalance the very strong public interest in extradition. Serving the sentence in the United Kingdom is not an option which is open to the appellant to choose.
11. For all those reasons I have arrived at the same conclusion as the other judges who have considered this case. There is no reasonably arguable ground of appeal and the application for permission to appeal is refused.

11 June 2020