

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

[2021] EWHC 2068 (Admin)



No. CO/3441/2018

Royal Courts of Justice

Wednesday, 14 July 2021

Before:

MR JUSTICE HOLMAN

B E T W E E N :

RITA GRIGALIUNAITE

Appellant

- and -

LITHUANIAN JUDICIAL AUTHORITY

Respondent

\_\_\_\_\_  
MISS D. BARDEN (of counsel) appeared on behalf of the appellant.

\_\_\_\_\_  
MISS C. BROWN (instructed by CPS Extradition Unit) appeared on behalf of the respondent.

\_\_\_\_\_  
**J U D G M E N T**  
**( A s a p p r o v e d b y t h e j u d g e )**

MR JUSTICE HOLMAN:

- 1 This is a substantive appeal from an extradition order made as long ago as 28 August 2018. It is a striking feature of the chronology of this case that the entire extradition proceedings before the court of first instance were contained within the space of one month. The appellant was first arrested in relation to this matter on 3 August 2018. The full hearing took place on 21 August 2018 and, as I have mentioned, the district judge gave his ruling on 28 August 2018.
  
- 2 By contrast, here we are on 14 July 2021, to all intents and purposes three years later, and these appeal proceedings are only being finally resolved today. The essential reason for that, apart from increased delays in this court generally, is that the application for permission to appeal was stayed behind certain other cases which concerned prison conditions in Lithuania. In the light of the decisions in those cases, those grounds of appeal are no longer pursued or relied upon. And so it is that only now, three years later, I am considering what is essentially the Article 8 ground.
  
- 3 So far as that ground is concerned, permission to appeal was originally refused by a single judge on consideration of the papers, but then granted at a renewal hearing on 15 January 2021 by Johnson J.
  
- 4 I wish to stress very clearly at the outset of this judgment that I must, of course, consider the Article 8 point in the circumstances as they are now, which, indeed, includes the passage of time now since the alleged offences were committed, and also the total period of time now that this appellant has lived and made a private and family life here in England.

5 Save in one respect, which I will mention in due course, I do not make the slightest criticism whatsoever of the judgment of the district judge or of the manner in which he dealt with this case. He was faced with the difficult situation for any court that the requested person only speaks, or at that time spoke, limited English and had to conduct the hearing through an interpreter. She had, and still does have, a very modest income from her work and earnings, but it apparently disqualified her from any legal aid, and so she was representing herself. Extradition is a complex and relatively technical area of the law, and this requested person desperately needed proper legal assistance and representation which, frankly, was denied to her. The district judge did his very best in those difficult circumstances.

6 The appellant is a woman now aged forty-six. The warrant is an accusation warrant. It alleges three offences, all committed within a short space of time during September 2015. The first offence has been described as swindling. It allegedly involved the appellant, together with two other named people, trying to swindle the victim into parting with €7,000 on the basis of an elaborate and fanciful story that it was required in order to bribe some police officers not to open a criminal case. The appellant and her co-accused did not succeed in getting the money from that victim, and the second offence, a couple of hours later on the same date, is one of robbery of the same victim. The victim was attacked by a blow to her face and her handbag stolen from her. It is not alleged that this appellant actually inflicted the blow, but she is said to have been an accomplice. The third offence was a similar form of swindling, albeit with a different fabricated story, that took place three days later, on 19 September 2015.

7 Of course, in extradition proceedings on an accusation warrant the requested court must accept in good faith the account given by the requesting judicial authority. I mention, although it cannot weigh with me in the slightest, that this appellant denies that she was personally involved at all in any of those three offences. One of the people named as

participants in all three offences is a man who was, at that time, her ex-partner or boyfriend in Lithuania. She says that he vengefully named her as an accomplice in order to drop her into it and, indeed, in order to bring about her extradition. But she firmly states that she had nothing to do with any of these offences whatsoever.

8 The district judge gave a careful judgment in which he summarised the oral evidence which the appellant and her current partner, with whom she was living here in England, had given to him. But as she was acting in person, there was not even at that stage any written statement of any kind from her. She did, however, tell the district judge that she had managed to overcome former heroin addiction as a result of the sustained taking of a substitute drug, Subutex, and she had clearly expressed to the judge her concern that that treatment might not be available to her in Lithuania. This evidence is summarised in paragraph 11 of the judgment of the district judge, where he said:

“The RP’s partner, Mr Lopez, gave evidence. He considered it would be impossible if she went back to Lithuania. Her ex-partner would endanger her life and she has nobody else to stay with in Lithuania. He is very concerned what would happen to her if she returns to Lithuania. He is very concerned that she would slip back into her earlier heroin addiction. She takes Subutex which she would not get in Lithuania.”

9 The district judge then performed the well-known *Celinski* balance at paragraphs 15-20 of his judgment. There is one clear, but unimportant, factual inaccuracy in the sixth bullet point in paragraph 16. He refers, correctly, to the requested person having been brought up in a care home. He then states that she lost contact with her father and that her mother has died. Actually, the facts are the other way around. She lost contact with her mother and her

father has died. Her father hanged himself when she was aged eight, and it was that event which precipitated her and her sister being taken into care and placed in a care home.

- 10 There is, however, one more cogent error in the balancing exercise. At paragraph 15, under a heading “Matters in favour of ordering extradition”, the district judge set out in very familiar and, frankly, conventional terms, the public interest in ensuring that extradition arrangements are met. He then said, as the second bullet point:

“There is a strong public interest in discouraging persons seeing the UK as a state willing to accept fugitives from justice.”

As a bald statement of fact and policy, that bullet point is, of course, correct. But it is really only relevant in any given case if, in that case, the requested person is a fugitive from justice. In the present case there is not the slightest reason to suppose that this appellant is a fugitive from justice. She had not been approached in any way whatsoever by Lithuanian police or prosecuting authorities in relation to these matters before she came, lawfully and freely, to England in January 2016. Indeed, the very first she knew about any of these matters was when she was arrested some two and half years later in August 2018. She says that she came here in search of a better life, having managed to rid herself of the clutches of the very unsatisfactory partner in Lithuania, who had, indeed, she says, been the person who first introduced her to heroin and caused her addiction. She came to the United Kingdom in search of employment and she obtained employment and has worked continuously here throughout the five and a half years that she has lived here. After coming here, she met Mr Lopez who became her partner, as I have mentioned.

- 11 So it is concerning that at paragraph 15 the district judge set out the strong public interest in the United Kingdom not accepting fugitives from justice, but that neither there, nor

anywhere else in his judgment, did he record that this particular requested person is not, and was not, a fugitive from Lithuanian justice. Frankly, I have no idea whether the district judge was treating her as a fugitive or not, but it is an important topic, highly relevant to Article 8, upon which he should have made a clear and reasoned finding.

12 At the hearing of this appeal today, I must take into account the sheer passage of time. As I have said, to all intents and purposes three years have elapsed since the extradition order was made. It is now nearly six years since the alleged offences. The length of time that the appellant has been in the United Kingdom is now five and a half years. She has made a series of written statements since she did manage to obtain legal representation, the truth and reliability of which I must accept. They tell a tale of an appalling life history. Her father, as I have mentioned, hanged himself when she was eight. She and her sister were taken into care. She gave birth to a first child when she was aged eighteen. Tragically, that child either committed suicide or died as a result of drug overdosing in about 2016. She describes in her statements her life in Lithuania with the very unsatisfactory partner, whom I have mentioned, and how she became addicted and sucked into the abyss of sixteen years of heroin addiction. Whilst denying any involvement in the offences which are the subject of these extradition proceedings, she readily admits that she regularly stole from shops in order to fund her heroin habit. She spent time in prison as a result.

13 The story of her turnaround here in England is, frankly, a remarkable one which does her very great credit. As I have mentioned, she rapidly obtained a job, which she still has, working as a packer in a salad preparation factory. She has not committed any offences at all during her time here. She formed a stable and settled relationship with her partner, Mr Lopez, and she completely freed herself from any consumption of heroin from about June 2018. Tragically, Mr Lopez, who had had various health conditions of his own, died in January 2021. Meantime, the appellant's daughter from her relationship with her former

partner in Lithuania, has travelled here and made a settled home here; and, indeed, the appellant is now living with her daughter, who is herself aged twenty-one.

14 In order to wean herself from her dependence on heroin, the appellant has participated in a prolonged course which relies on the use of the drug Subutex, which is a form of Buprenorphine, to prevent her suffering withdrawal symptoms and relapsing into actual use of heroin. I mention also that since her arrest in early August 2018, that is, now almost three years, the appellant has been on relatively stringent bail conditions. These include an electronically monitored curfew every night, reporting to a police station twice a week, residence requirements, and a requirement to have her mobile telephone charged and switched on twenty-four hours a day. Those, of course, cumulatively represent restrictions upon her liberty which she has now loyally maintained for almost three years.

15 The appellant's lawyers have made enquiries as to the availability of treatment with Subutex, or other forms of Buprenorphine, within prisons in Lithuania. There has been a number of reports from a Lithuanian lawyer, called Dr Sakalauskas. His most recent addendum report is dated 7 July 2021, which is only one week ago. He attaches to that certain material which he has downloaded or obtained in Lithuania, and he says that:

“... As a result, I conclude that there is no Methadone or Buprenorphine treatment available during 2020 in prisons in Lithuania.”

16 I should stress very clearly indeed that that addendum evidence is very recent, namely 7 July 2021, only last week. The Lithuanian authorities have not had any opportunity to respond to it. I stress that I do not make any finding, either in this case or, still less, to carry over into any other case, that Subutex or Buprenorphine treatment is not now available to prisoners in Lithuania. But it would be wrong further to protract this already very protracted case by an

adjournment. I proceed, for the purposes of the present case only, on the basis that there is a risk – I put it no higher than that – that this appellant may not receive Subutex or similar treatment in Lithuania; or, at any rate, that her receipt of it, which requires to be regular and frequent, may be interrupted.

17 In my view, the facts and circumstances as they now are do materially alter the Article 8 balance in the present case. Apart from the one matter of fugitive status, to which I have referred, I do not in any way whatsoever criticise or, indeed, disagree with, the balance that the district judge performed three years ago in August 2018. But, in my view, now, in mid-July 2021, the Article 8 balance clearly comes down the other way. This person is not a fugitive. The alleged offences, although serious, are not the most serious. She has very dramatically turned her life round. She has a good employment record here. She has not committed any offences here, in contrast to a pathetic narrative of regular shoplifting to fund heroin addiction in Lithuania. She has managed to wean herself off dependence on heroin, but she remains heavily dependent on sustained, frequent and regular treatment with Subutex with, as I say, a risk (I put it no higher than that) that that might be interrupted if she were now extradited. She has suffered repeated tragedies in her life, including most recently the death, at a relatively young age, of her partner with whom she had formed a stable and settled relationship here. She has, again, rebuilt her life, living now with her daughter. For almost three years she has been subject to the bail conditions which I have mentioned and the consequent restrictions on her liberty.

18 In my view, putting all these facts and circumstances together, the particular circumstances of this appellant clearly outweigh the general public interest in extradition. For those reasons, I propose to allow this appeal. The order for extradition will be quashed and the appellant will be discharged.



MR JUSTICE HOLMAN: Is there anything else, Miss Barden?

MISS BARDEN: No, thank you, my Lord.

MR JUSTICE HOLMAN: Anything else, Miss Brown?

MISS BROWN: My Lord, I did not know whether, for form's sake, it was appropriate to dismiss the appeal in respect of the second ground because that was live before the court.

MR JUSTICE HOLMAN: You mean the----

MISS BROWN: The section 25 ground. Unless Miss Barden officially abandoned it but it ought to be dealt with one way or the other.

MR JUSTICE HOLMAN: Well, I do not find it necessary to deal with it.

MISS BROWN: I am grateful, my Lord.

---

**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by Opus 2 International Limited  
Official Court Reporters and Audio Transcribers*

*5 New Street Square, London, EC4A 3BF*

*Tel: 020 7831 5627 Fax: 020 7831 7737*

**CACD.ACO@opus2.digital**