



Neutral Citation Number: [2023] EWHC 2311 (Admin)

Case No: AC-2023-LON-000534
CO/337/2023

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Tuesday 19th September 2023

Before:

MR JUSTICE FORDHAM

Between:

MAREK PAWLAK

- and -

REGIONAL COURT OF SZCZECIN (POLAND)

Appellant

Respondent

Mr Zalewski for the Appellant

The Respondent did not appear and was not represented

Hearing date: 19.9.23

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.

THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced and approved by the Judge from the ex tempore judgment delivered in open court.

MR JUSTICE FORDHAM:

1. The Appellant is aged 61 and wanted for extradition to Poland, in conjunction with a conviction Extradition Arrest Warrant (issued on 25 June 2019), on which he was arrested (on 22 September 2022) and then detained on extradition remand. He is wanted to serve a 12 month custodial sentence imposed in 2015, originally suspended but then activated in 2017. District Judge McGarva (the Judge) ordered extradition in January 2023. The sole ground of appeal is Article 8 ECHR. Permission to appeal was refused on the papers on 29 July 2023. The Judge drew attention to qualifying remand which at the stage of his judgment was 4 months, recording that the qualifying remand ran from 23 September 2022. The key point is that the Appellant is now recognisably on the verge of serving the entirety of the 12 months sentence by way of the qualifying remand.
2. In the early afternoon of last Friday 15 September 2023 I refused an application which had been made at lunchtime that day for the Appellant’s Counsel (then Mr Henley) to appear today by CVP. My reasons were as follows. The application for a CVP appearance relied on Mr Henley’s “knowledge of the case”. But Mr Henley was not named on the appeal notice, nor on the notice of renewal; he did not write the grounds of appeal, nor provide any skeleton argument; and he had not appeared below (before the Judge). Reliance was also placed in the CVP application on the straightforwardness of the case, given the qualifying remand-served point. That point had not featured in the grounds of appeal, nor in the notice of renewal. But the Appellant’s solicitors were stating that it had repeatedly been raised with the Crown Prosecution Service (CPS). The Court had not been provided – and has still not been provided – with those communications. I reasoned that the point was indeed straightforward, referring to Krzyanowski v Poland [2020] EWHC 3401 (Admin). As regards representation, any competent counsel in the field could readily step in and there were Counsel appearing in other cases the same day (I identified Mr Hepburne Scott, Ms Grudzinska and Mr Zalewski – who in the event has stepped in – as already before the court in cases listed today). I said that, if the issue resolved, so that no attendance was needed, so be it. But if unresolved, other counsel could and should be instructed. I made clear that the Court needed to know the CPS position on the remand time-served point.
3. The CPS position came speedily and the issue did indeed resolve. I communicated to the parties that no attendance was necessary at today’s hearing, though in the event Ms Zalewski appears, though no submissions were necessary. By mid-afternoon on Friday the CPS (Ian Haq) had responded, as follows. He had reviewed the CPS file in the absence of the reviewing lawyer. He attached a translated letter dated 11 September 2023 and received on 14 September 2023 from the Respondent Judicial Authority (RJA) via the National Crime Agency. That letter confirmed that as of 23 September 2023, the Appellant will have served the entirety of his sentence in connection with these proceedings and the RJA would thereafter withdraw the warrant. In those circumstances, the CPS invited the Court, at this hearing (on 19 September 2023) to grant permission to appeal and uphold the appeal, with the date for the court order coming into effect being post-dated to 23 September 2023 (this Saturday) to ensure that the Appellant serves his full sentence. Yesterday, a Consent Order to this effect followed. I record that I am aware that a question has been ventilated in communications between the parties as to whether release will in fact be on Friday.
4. I am satisfied in all the circumstances that the correct disposal of this appeal – reflected in Krzyanowski, in the CPS’s request, and in the Consent Order – is an Order as

follows, which I will make, by consent. (1) Permission to appeal is granted. (2) It is directed that the hearing 19 September 2023 stands as the substantive hearing of the appeal. (3) Paragraph (4) of this Order will take effect on Saturday 23 September 2023. (4) On Saturday 23 September 2023: (a) the appeal is allowed pursuant to section 27(2) and (4) of the Extradition Act 2003; (b) the order for extradition shall be quashed; and (c) the Appellant shall be discharged and released in relation to these extradition proceedings. (5) No order as to costs save that there be a detailed assessment of the Appellant's publicly funded costs.

19.9.23