



Neutral Citation Number: [2024] EWHC 1458 (Admin)

Case No: AC-2023-LON-002994

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

Thursday, 13<sup>th</sup> June 2024

**Before:**  
**FORDHAM J**

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**Between:**  
**ROSS MOORE** **Appellant**  
**- and -**  
**CRIMINAL COURT NO 4 IN MALAGA, SPAIN** **Respondent**  
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**Georgia Beatty** (instructed by Sonn Macmillan Walker) for the **Appellant**  
The **Respondent** did not appear and was not represented  
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Hearing date: 13.6.24

Judgment as delivered in open court at the hearing  
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**Approved Judgment**

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FORDHAM J

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

**FORDHAM J:**

1. The Appellant is a UK national aged 39 who is wanted for extradition to Spain. That is in conjunction with a conviction Extradition Arrest Warrant issued on 8 March 2023 on which he was arrested on 5 April 2023 and released on bail on 3 May 2023. Since that time he has been on a six-hour electronically monitored curfew (10pm to 4am) for now 13½ months. He lived for a number of years in Spain and it is there that he was convicted, at a trial at which he appeared, and sentenced to 14 months imprisonment suspended for 2 years, on condition of making payments for which there was an instalment plan. That sentence was imposed in February 2020. The offence for which it was imposed was manslaughter, committed in June 2015 in a Spanish bar when the Appellant with intent hit the victim 3 times in the face and head, causing death due to a combination of factors including those injuries and the victim's previous pathologies, together with the victim's alcohol intake and intoxication. The ExAW states that there are 351 days to serve of the 14 month sentence. It was activated, for non-payment of the required sums, in November 2021.
2. Extradition was ordered by District Judge Griffiths for reasons in a very detailed judgment handed down on 4 October 2023. That was after an oral hearing on 31 July 2023 at which the Appellant and expert psychiatrist Dr Vivek Furtado gave oral evidence. Dr Furtado had written a report ("Furtado 1"). The Judge unassailably found that the Appellant had left Spain in May 2021 (with his then partner and their 2½ year old) as a fugitive, deliberately putting himself out of the reach of the Spanish proceedings. Permission to appeal was refused on the papers by Heather Williams J who could see no reasonably arguable appeal by reference to Article 8, or section 25, including when regard is had to the sequel expert report of Dr Furtado (29.10.23) ("Furtado 2"), which it is said that the Westminster Magistrates Court (WMC) ought to have deferred hand-down of judgment, and adjourned for a fresh hearing, so as to await that evidence; and in any event it is said that this Court should receive it as fresh evidence.
3. The manslaughter offence is a serious matter and the custodial period of 351 days (less a month on qualifying remand) is a significant one. There are very strong public interest considerations in favour of extradition, including in the context of the Appellant's fugitivity. The Judge, rightly in my judgment, found that the passage of time did not serve substantially to reduce the strength of the public interest in extradition. Ms Beatty places particular emphasis on the passage of time between June 2015 and February 2020, which she today says is totally unaccounted for. But that was the period while the Appellant was in Spain and, to the extent that it reflects any relative lack of urgency, the fact is that the strong public interest considerations in extradition beyond argument do remain undiminished. There has been no significant delay in the extradition pursuit of the Appellant. And there is no question of any false sense of security.
4. Reliance is placed on the very real concerns relating to the Appellant's mental health, where Furtado 1 recorded that the criteria are met for a depressive disorder, generalised anxiety disorder, panic disorder and post-traumatic stress disorder (referable to the manslaughter incident in the bar). Reliance is placed on the fact that the interventions appropriate for the Appellant's mental health conditions are not readily available in a prison setting. Ms Beatty refers to Magiera v Poland [2017] EWHC 757 (Admin) at §34. But the Judge expressly recognised that point when

discussing psychological interventions which are better accessed in the community and recognised the further delay which extradition would mean to the Appellant being able to access such community-based interventions. Alongside that point, the Judge unassailably found that the Spanish authorities could be relied on to provide the Appellant with appropriate medical care and treatment, appropriate in a custodial setting, in light of operative presumptions and the absence of contrary evidence. That finding remains intact.

5. Reliance is placed on a suicide risk found by the Judge not to be substantial (based on Furtado 1 and Dr Furtado's oral evidence); given that Furtado 2 now identifies a high to very high suicide risk should extradition be ordered, in light of an evidenced previous suicide attempt. Dr Furtado recommends urgent referral to mental health services so that suicide risk can be best managed if extradition is ordered. The Judge addressed the mental health position in very considerable detail. She ordered that the judgment, Furtado 1 and the medical records be provided to the Respondent judicial authority and the National Crime Agency prior to and at the time of the extradition. That would now need to include Furtado 2 and the updated medical records. In considering suicide risk, the Judge recorded that there was no evidence before her that the Appellant's mental health condition was such as to remove his capacity to resist the impulse to commit suicide. That remains the position, including following Furtado 2. Heather Williams J clearly pointed this out in two paragraphs within her reasoned refusal of permission to appeal on the papers back in February. The familiar Turner test cannot, even arguably, be satisfied.
6. Ms Beatty places reliance – leaving aside the distinct question of suicide risk – on the working illustration case of XY v Netherlands [2019] EWHC 64 (Admin) which is a case which featured PTSD and Article 8 disproportionality as well as section 25 oppression. The key features of that case included that a requested person, who had been released with a false sense of security (before his sentence was increased on appeal), and had not left the Netherlands as a fugitive, and was now going to be returned to incarceration there, returning to the very prison environment in which he had been anally raped and where the Dutch authorities had failed to protect him; the very environment which had caused his trauma and PTSD as a victim of that abuse.
7. I have considered all the features of the case. That includes the updating position so far as concerns the now 13½ months of electronically monitored curfew, alongside the one month of qualifying remand. It includes the impacts of extradition for the Appellant being removed, the prospect of losing the chance of contact with the 2 young children (the youngest was born in the UK in August 2022), who he did not see after his arrest in April 2023, the relationship with the partner having broken down. It includes the other impacts and implications of extradition, for all those whose Article 8 rights would be being interfered with. It includes other considerations such as the Appellant's pattern of work in the UK and the absence of any criminal convictions here since his return here in May 2021.
8. Having done so, I agree with Heather Williams J that there is no realistic prospect that this Court would overturn the Article 8 or the section 25 outcome on a substantive appeal, even with Furtado 2 as fresh evidence. I also agree with her that it is not reasonably arguable that WMC (District Judge Heptonstall) was wrong not to defer hand down and await Furtado 2 with a fresh hearing; and in any event I agree that Furtado 2 does not undermine the outcomes. I will therefore refuse permission to

appeal and, since it is incapable of being decisive, I will formally refuse permission to rely on Furtado 2 and the related documents.