



Neutral Citation Number: [2024] EWHC 2381 (Admin)

Case No: AC-2024-LON-001282

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

Thursday, 19th September 2024

Before:
FORDHAM J

Between:
KAMIL DRZEWIECKI **Appellant**
- and -
POLISH JUDICIAL AUTHORITY (No.2) **Respondent**

George Hepburne Scott (instructed by Bark & Co) for the **Appellant**
The Respondent did not appear and was not represented

Hearing date: 19.9.24

Judgment as delivered in open court at the hearing

Approved Judgment

FORDHAM J

Note: This judgment was produced and approved by the Judge.

FORDHAM J:

1. This is the sequel to Chamberlain J's judgment [2024] EWHC 1756 (Admin), the upshot of which is that the Appellant (aged 36) is being extradited to Poland to stand trial for VAT fraud with a total value of PLN 527,414.84 (in respect of an alleged course of conduct running 1.4.11 to 28.7.11), his qualifying remand from February to September 2023 having extinguished a conviction matter (assault, robbery and theft). This sequel case concerns the separate accusation warrant (see Chamberlain J's judgment §3), on which the Appellant had been arrested in August 2023 and remains on extradition qualifying remand. It alleges similar VAT fraud with a further total value of PLN 68,149 (in respect of an alleged course of conduct running 3.1.11 to 28.1.11). Following refusal of permission to appeal on the papers, the sole ground of appeal maintained is Extradition Act 2002 s.21A(1)(b) with (2)-(3) (that is, statutory proportionality, with its statutorily-identified factors). Mr Hepburne Scott submits that the likely sentence in England and Wales for these January 2011 matters, standing alone, would have a starting point of 26 weeks custody (he had previously said in writing 36 weeks); and would be likely to be suspended. The same characterisation (but using a starting point of 18 months) did not persuade Chamberlain J, in relation to the later alleged matters in 2011. He emphasised that there is a public interest in extradition to face such a sentence and that suspension is a matter for the Polish judicial authorities.
2. This is not one of the "minor financial offences" in the applicable Criminal Practice Direction at §17A.5. And, moreover, it does not stand alone. The alleged criminal conduct is clearly closely linked to that for which the Appellant is already being extradited, which Chamberlain J described as being "on their face, significant frauds for which a substantial sentence may be imposed". The Criminal Practice Direction specifically treats "extradition also sought for another offence" as an exceptional circumstances case, even for "minor financial offences". Of which is a clear indication that the extradition court should look at the position in the round, having regard to the reality. That was a point emphasised by Sir Duncan Ouseley when refusing permission to appeal on the papers. In fact, I find it impossible to think of a logic which justifies extradition for the April to July 2011 alleged course of conduct, but then not the linked January 2011 alleged course of conduct. The entirety of the alleged offending relates to false invoices regarding fictional sales and a fake company (called KAM-BUD). It plainly goes together, and would be sentenced together, if the Appellant were convicted across the entirety of the periods.
3. The Judge was not arguably wrong to reject the statutory proportionality argument. The Judge identified that the Appellant would be being sentenced having previously failed to comply with a suspended sentence in Poland (in respect of the robbery and theft convictions); noted that the offending would attract a custodial sentence in England and Wales; and noted the maximum sentence in Poland (8 years). Extradition would plainly not be statutorily disproportionate, taking account of the seriousness of the alleged conduct, the likely penalty in Poland if found guilty and the possibility of Poland taking less coercive measures than extradition. There is no realistic prospect of success, including when regard is had to the now increased qualifying remand; and when regard is had to the previous October 2023 expressed willingness of the Polish authorities to have the Appellant interrogated here by the UK authorities. Mr Hepburne Scott has rightly drawn that to my attention. He tells me, and I accept, that there were adjournments and hearings vacated in 2023. In the event, that came to nothing and putative fresh

evidence of that aspect – which was a feature of which evidence could plainly have been adduced and relied on for the March 2024 hearing before District Judge Law who ordered extradition in this case – does not support a viable finding that there is a prospect of less coercive measures. The Appellant remains in custody here, 3 months on from Chamberlain J’s dismissal of his first appeal, but that is the consequence of his decision to try to pursue this second appeal. He will now be extradited on these linked matters. I will refuse the applications for permission to appeal and to adduce the putative fresh evidence, it being incapable of being decisive.

19.9.24