



Neutral Citation Number: [2021] EWHC 1916 (Admin)

Case No: CO/4603/2020

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8th July 2021

Before :
MR JUSTICE FORDHAM

Between :

MARIA SIMONA POP	<u>Appellant</u>
- and -	
TARGU-MURES DISTRICT COURT (ROMANIA)	<u>Respondent</u>

The **Appellant** appeared in person
The **Respondent** did not appear and was not represented

Hearing date: 8.7.21

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 remote hearing.

MR JUSTICE FORDHAM :

Introduction

1. This is a renewed application for permission to appeal on Article 8 ECHR grounds in an extradition case. On 28 May 2021 Sir Ross Cranston refused permission to appeal on that Article 8 ground. He stayed an application to rely on a section 2 and Article 6 argument, pending resolution of that issue of principle in a lead case. The Appellant's solicitors (who still act on the section 2/Article 6 issue) filed a notice of renewal on Article 8 grounds on her behalf so that she could address the Court herself. They also ensured that the court had a bundle of materials. The solicitors had told the court that there was an application to rely on new evidence which was updated medical evidence. They later informed the Court, yesterday, that that application was no longer being made (at least by them). But the Appellant told the Court by email yesterday and today that she did want to rely on that new evidence. She asked me to read it and I have read it. I have taken into account and if I took the view that it was capable of being decisive in her favour, I would grant permission to rely on it. The mode of hearing was by MS Teams, as the Appellant's solicitors had requested on her behalf. That is because she lives and works in a Leicester care home. In the context of the pandemic, she was understandably anxious to eliminate any risk to herself or to anyone else from her travelling to or being present in a court room. I am quite satisfied that the mode of hearing was necessary and proportionate, that there was no prejudice to anybody's interests, and that the open justice principle has been secured. As always, the case and its start time were published in the cause list together with an email address usable by any member of the press or public who wished to observe.

Interpreter

2. Arrangements have been made for a Romanian interpreter. That was because the Court had understood that the Appellant would need an interpreter in order to be able to understand what was being said at the hearing, and in order that she could speak freely and through an interpreter be understood. The interpreter has attended to assist the Court. But at the start of the hearing the Appellant stated that she wished to address the Court in English and did not wish to speak through, or have the Court speak through, the interpreter. The Appellant has been able to address me clearly and fluently. It is clear to me that she and I have been able to understand each other. The interpreter stayed on standby, at my request, in case there was any technical language that presented any difficulty; which there was not. This ex tempore judgment is not being simultaneously interpreted. I have explained that I will make available a written approved version of this judgment which will be emailed to the Appellant and to her solicitors and the Respondent (as is often the case, the Respondent has not attended this oral renewal hearing). The Court may wish to look into what was said, and how it came to be that an interpreter was arranged for this hearing and that public money has been spent on that step. There is absolutely no criticism of the interpreter who has been here present throughout and able to help, and who certainly should be paid. I do not hold against the Appellant any question relating to the interpreter having been provided. I simply mention the point in case there is a lesson to be learned for any future case.

Context

3. The Appellant is aged 44 and is wanted for extradition to Romania. That is in relation to an EAW issued on 11 March 2020. It is a conviction warrant, although the papers say the Appellant would be entitled to a retrial upon extradition and in any event could invite the substitution of a suspended sentence. I am not in a position to draw any conclusion or make any finding as to what steps are available or will be available, or as to what step might be appropriate for the Romanian authorities to take, if there were to be an extradition. The offences took place between December 2015 and March 2016. The Appellant falsified receipts in relation to 6 clients of her employer, Provident Financial, accounting to the employer for only part of what was in fact paid by the clients. As a consequence, she gained the equivalent of £1,188. Those are the circumstances as they are described in the papers. A custodial sentence of two years, together with a compensation requirement, was imposed on 4 February 2018. A two year custodial sentence remains to be served. DJ Rimmer ordered extradition on 7 December 2020, giving a reasoned judgment, after an oral hearing on 13 October 2020 at which the Appellant gave oral evidence.

Article 8: the Appellant's Case

4. The Appellant's Article 8 case for resisting extradition was, and is, in essence as follows. She says it is unfair and unjustified that she be extradited. She will leave behind the husband to whom she has been married for 21 years. Since coming to the United Kingdom in May/June 2019 with her husband she has established a new and productive life as a care home worker. The role that they both play has been particularly invaluable during the pandemic. Her care home employer confirms that she has been employed since 5 June 2019 has been extremely professional and diligent, works hard, is liked and respected, and has been invaluable to the company during the pandemic, taking on extra shifts to cover for isolating or shielding staff. The Appellant points to the fact that the compensation payable to the Romanian employer was paid in full, in two stages on 20 May 2020 and 25 June 2020. She points to what she says is a disparity in the Romanian sentence of her husband, who was charged with the same offending and received a three year custodial sentence but suspended for a period of 4 years, together (she tells me this morning) with a 90 day requirement of community work. As I have explained, she puts forward medical documents. These records conditions in particular of psoriatic arthritis and skin psoriasis, and hypertension, and the treatment that she is undergoing. She points to the impact on herself, on her husband on the care home and on the care home residents. She says extradition would be an unjustified and disproportionate interference with her, or their, Article 8 rights of respect for private and family life. The Appellant has addressed me clearly and courteously this morning. It is important that I record what she has told me in addition to the points already made, all of which were derived from the papers in the case. She asks the Court not to order extradition and to overturn the District Judge's order. She accepts that what she did was wrong and has expressed her remorse for it. She asks for compassion and for forgiveness. She emphasises that she has made a home in the United Kingdom, is caring for the elderly and the vulnerable, is supporting colleagues, that she wants to continue the life that she has made here, as a good citizen and paying her taxes. She emphasises that her husband relies on her, his English is not as good as hers and he needs her for example for going to a bank. She tells me that the care home employer will be left in a precarious position struggling to recruit new staff, and that her husband would find it hard and struggle without her. She has referred to wider family and the saving that she was making for

medical treatment for sight loss for her 65 year old mother in Romania. She has told me of her concerns, notwithstanding what she describes a settled status, if she goes back to Romania and serves a prison sentence. Those concerns are as to whether she would be able to return to the United Kingdom to be with her husband and her prospects if she were left in Romania looking for work there.

Overturning the Romanian sentence

5. The Appellant has in her submissions today introduced two further topics, which I need to consider. The first is this. She told me that she wants this Court's help to try to overturn the two year custodial sentence of the Romanian court. She has explained the basis on which she would want to argue that the sentence was excessive. That includes the disparity point relation to her other colleagues who she says were involved in the same criminality, as was her husband who has received a suspended sentence (and 90 days of community work) and can therefore stay in the United Kingdom. She tells me that she thinks she was given a custodial sentence because she did not attend a particular hearing, while she was in the United Kingdom, as to which she says her lawyer had heard details and that she did not know that she needed to attend. She emphasises that Provident Financial having been compensated in full have confirmed that they consider the matter closed. So far as concerns this topic, about this Court helping the Appellant in relation to overturning the Romanian sentence, that was no part of the function of the District Judge. It is no part of my function. Both the District Judge and I have particular roles to perform under the statutory framework and under the applicable law. The function of this Court, and the function of the District Judge as the extradition judge, does not extend to forming a conclusion as to whether we think public interest considerations would warrant the Romanian authorities agreeing to substitute a suspended sentence. It may very well be that a mechanism will be available for the Appellant, to be able to make the points that she has made to me, and to invite the Romanian authorities to re-evaluate whether enforcement of the custodial sentence and if so for the entirety of the two-year term is appropriate and justified in the circumstances as they now are. That includes any points which compare the position of the Appellant and her husband. It also includes the points relating to the, belated but full, payment of the compensation. The Appellant has referred this morning to seeking compassion and forgiveness. She has expressed remorse. The extradition Courts in this country need to recognise the strong public interest in respecting the decision-making functions of the judicial authorities in the requesting states. One of the consequences of my having recorded in detail what I have been told is that the Appellant will be able to point to this Court as having recorded the confidence it has and must have in the Romanian judicial authorities considering, under the legal framework in Romania, and as appropriate under Romanian law, all of these sorts of considerations. There is no basis on which this Court could overturn the sentence in Romania or take steps in conjunction with extradition which would have that consequence.

Prison conditions and medical treatment

6. The second topic introduced today by the Appellant concerned prison conditions and medical treatment if she were extradited to Romania and were in custody there. She tells me that she is really scared of the prospect of serving any prison term in Romania. She refers to basic human rights is not being respected, at least according to what she understands and hears on the news. She refers to fears about minimum needs

(such as care and water) not being provided. She also referred to treatment which has been provided, set up for her and booked on the NHS here, including medication and blood tests, and which would be available in Romania to those able to pay for health insurance, but which would not – she says – be available in prison. I have considered this topic relating to prison conditions and health care. This was not a ground which was the subject of renewal to this Court. But the points being made are human rights points and the Appellant is appearing in person. When I look at the judgment of the District Judge the question of prison conditions, including medical treatment, was specifically dealt with. The District Judge quoted in detail from a prison assurance dated 9 June 2020 which described the conditions, by reference to the prison at which the Appellant would be held, including the rights to medical assessment, treatment and care. The District Judge was satisfied that no basis for resisting extradition arose out of any concern relating to prison conditions, or relating to rights to and provision of medical treatment if detained. Having considered the points raised today, I am quite sure that there is no arguable basis for overturning that conclusion, or resisting extradition on these grounds. It was right that I consider them, but there is no viable point arising out of the two topics raised.

Article 8: Discussion

7. What is left therefore are the points that were present when the application was renewed, including the further submissions made by the Appellant this morning, in relation to Article 8 ECHR. Sir Ross Cranston concluded that the Article 8 ground of appeal was unarguable and had no realistic prospect of success. Having carefully considered all of the matters in this case including everything that I have been told this morning, I have reached the same conclusion. I am not going to grant permission to appeal in this case. I cannot properly do so. The reason for that is that, in my judgment, there is no realistic prospect that this Court would allow an Article 8 appeal in this case, would overturn the decision of the District Judge, and would decide that Article 8 considerations bar extradition. Extradition law, including human rights law as applied in an extradition context, operates on the basis of a recognition of the strong public interest considerations which apply in favour of extradition, against which are to be counterbalanced any factors including human rights impacts capable of weighing against it. In this case, there are strong public interest considerations in favour of extradition, and in favour of avoiding the United Kingdom being a safe haven for those who avoid accountability by leaving as fugitives. These considerations decisively outweigh the considerations capable of weighing against extradition, and the District Judge was not arguably wrong in so concluding. The offences are serious and relatively recent. The custodial term is significant. The circumstances justifying that custodial term, including when put alongside circumstances relating to others involved in the criminality, were matters for evaluation by the Romanian sentencing judicial authority. The requirement to pay compensation was not paid when required, albeit that it has belatedly been discharged in full. As has unassailably been found as a fact, the Appellant came to the United Kingdom as a fugitive in May/June 2019, in breach of conditions imposed on her and placing herself beyond the reach of the authorities. That was a conclusion, based on the evidence, to which the District Judge was plainly entitled to come. The EAW was issued within a relatively short time. The couple have no children. It is to their credit that they have made the invaluable contribution that they have, during the pandemic, as care home workers. As I have explained – and as the District Judge and Sir Ross

Cranston also recognised – the sentence imposed on the husband was a matter for the Romanian courts in light of all the circumstances. Also a matter for the Romanian authorities, as I have explained, is the question of the payment of the compensation, and any question of how to deal with the Appellant, including following any extradition, as regards any retrial or substitution of a suspended sentence.

Conclusion

8. There is no arguable basis for resisting extradition by reference to private or family life considerations. There is no realistic prospect that this Court at a substantive hearing would interfere on Article 8 grounds. The medical evidence is not capable of being decisive and I formally refuse permission to rely on it. Permission to appeal on the Article 8 ground is therefore refused. The Appellant is not being extradited at the moment because her case is stayed in relation to the other grounds to which I referred at the start of my judgment. This has been a relatively lengthy judgment for a renewal of permission to appeal. But I decided that it was important that I explained, in detail, in the light of all of the points that the Appellant has made to me, why it is that I cannot grant permission to appeal in this case.

8.7.21