



Neutral Citation Number: [2023] EWHC 2955 (Admin)

Case No: CO/4389/2022
AC-2022-LON-003323

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Tuesday, 21st November 2023

Before:
FORDHAM J

Between:
ZYGMUNT RAWICZ-OLEDZKI **Appellant**
- and -
CIRCUIT COURT IN POZNAN (POLAND) **Respondent**

David Williams (represented by Langfield Law) for the **Appellant**
The **Respondent** did not appear and was not represented

Hearing date: 21.11.23

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.

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 aged 43 and is wanted for extradition to Poland. That is in conjunction with an accusation Extradition Arrest Warrant issued on 17 June 2021, and certified on 24 November 2021, on which he was arrested on 22 June 2022 and then released on bail. Extradition was ordered by District Judge Clarke (“the Judge”) on 18 November 2022 after an oral hearing on 21 October 2022 at which the Appellant was represented by Counsel. He and his then partner gave evidence, and he was cross-examined. The index offending is alleged to have taken place between 1999 and 2003, when the Appellant was between the ages of 18 and 22. It involved what the Judge, in my judgment, unassailably characterised, although Mr Williams belatedly challenged it today, as alleged “street dealing” to a minor, as a continuous single offence, involving a quantity of 295g of marijuana and 20 ecstasy pills.
2. The context is that the Appellant came to the UK in 2006 and has been here for the 17 years since then. He has lived a productive life here with no criminal convictions here. At the time of the Judge’s judgment, he was in a relationship with a partner which had begun in early 2022. It was not a cohabiting relationship and there were and are no children. The sole issue is Article 8 ECHR and the relevant Convention rights are now those of the Appellant, since the relationship has recently broken down.
3. Mr Williams, who has taken over this case, accepts that the Judge’s finding that the Appellant came to the UK in 2006 as a fugitive cannot successfully be impugned. Mr Williams is right to adopt that position. The Judge made adverse findings of fact which the Appellant, although disagreeing with them, cannot sustainably go behind on appeal. The Judge explained in detail, by reference to the evidence, the sequence of events. The investigation into the alleged criminal conduct had led to a March 2006 visit to the Appellant’s home in Poland when he was present. On the following day a lawyer, which he or his family had instructed, made contact with the investigating authorities. Subsequently, the Appellant failed to attend interviews on two occasions. He had fled the police. He had knowingly and intentionally evaded the authorities.
4. In support of the overarching submission that the Article 8 outcome is at least reasonably arguably wrong, Mr Williams adopts the case in writing by his predecessor. He also emphasises a number features of the case in particular. There is the Appellant’s age (18-22) at the time of the alleged index offending. Mr Williams says that the Appellant and the minor (who, can be put at perhaps 14-18) would have been relatively close (perhaps at most, 4 years) in age gap terms. There are the private (and until recently family) life and ties developed in the UK over the last 17 years. There is the overall extremely long extremely long passage of time of between now 20 years (back to 2003) and now 24 years (back to 1999), since the offending. There is the potential for further delay in the Appellant being tried following any extradition, in circumstances where Poland is under scrutiny for chronic delays in the criminal justice system. Reliance is placed on the Appellant having lived openly in the UK, having frequently travelled between the UK and Poland, and the database said to have been available to the authorities to track him down. There is the serious impact of extradition. There is the effect on his employment, albeit that I was told of recent changes, and the rupture of the financial support that he provides through his employment to his wider family back in Poland. There is the Appellant’s productive life in the UK and the absence of any convictions during the time in which he has

been here. These should have been weighed differently and differently analysed, including in greater detail; and the outcome is, at least arguably, wrong.

5. In refusing permission to appeal on the papers, Julian Knowles J said that he could see no error of approach by the Judge and the outcome was one that was open to the Judge. Having looked afresh, I can see no realistic prospect of this appeal succeeding at a substantive hearing.
6. The Judge analysed the passage of time. She recognised that there was no information about what had happened between 2003 and 2006, but that this was not a passage of time that was inexplicable either, in the context of the nature of the offending. She identified that the period of time from 2006 onwards had been explained, albeit that there were periods of little action by the Polish authorities. There had been a decision to charge the Appellant in January 2007 after he had evaded the requests for interviews in 2006. In September 2007 the investigation was suspended while searches were undertaken for the Appellant, and there were attempts to track him down. There was then a domestic warrant in September 2011.
7. Ultimately, there was the Extradition Arrest Warrant 10 years later in June 2021. The passage of time is capable of reducing the weight of the public interest considerations in support of extradition, and adding to the weight of private and/or family life features which weigh against extradition. But all of this was in a context where the Appellant had knowingly evaded the authorities and they were unable to track him down, for that reason and in those circumstances. Moreover, the new relationship in early 2022 was after the authorities had acted to issue the Extradition Arrest Warrant. The relationship, which had begun in early 2022, was in its early stages when the Appellant was arrested on the extradition proceedings in June 2022. The partner's Convention rights were and would be important. On the other hand, the relationship was not a long-standing one. They were not cohabiting. The partner lived separately, was in full-time employment and was fully independent. They have no children and there are no other children impacted. The update as at today is that the relationship has broken down.
8. The index offending is serious. Mr Williams accepts that it is trivial. The Appellant was over the age of 18, and up to the age of 22, when he allegedly was conducting street dealing in drugs to a minor. There are strong public interest considerations in support of extradition, including those which are linked to the Appellant's position as a fugitive, and these do decisively outweigh all those factors capable of weighing against extradition. The contrary is not, in my judgment, reasonably arguable. Some of the features in the Judge's reasoning could have been differently expressed, but the judgment does have to be read fairly and as a whole.
9. I make clear that I have not assumed that the breakdown in the relationship is irretrievable. I would not have granted permission to appeal even if there had been no breakdown in the relationship.
10. I will refuse permission to appeal.

21.11.23