



Neutral Citation Number: [2020] EWHC 439 (Admin)

Case No: CO/2136/2019

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/02/2020

Before :

THE RIGHT HONOURABLE LORD JUSTICE IRWIN AND
THE HONOURABLE MR JUSTICE LEWIS

Between :

JOHN SHORT
- and -
THE FALKLAND ISLANDS

Claimant

Defendant

Martin Henley (instructed by **Noble Solicitors**) for the **Appellant**
Rachel Kapila (instructed by **Crown Prosecution Service**) for the **Respondent**

Hearing dates: 30 January 2020

Approved Judgment

Irwin LJ and Lewis J:

1. This ruling concerns extradition proceedings in which the Government of Falkland Islands seeks the extradition of the Appellant in respect of alleged sexual offences involving two complainants. The District Judge in giving her judgment anonymised the name of the appellant, his wife and children, and the two complainants. During the hearing of the appeal the names of those persons were not referred to and they were referred to by initials. In our judgments on the appeal, we have continued to anonymise the names of the wife and children of the Appellant and the two complainants.
2. Judgment was reserved at the conclusion of the appeal. An issue arose as to the power of the court to restrict publication of identities. We invited submissions from the press but, at that stage, no members of the press were in court. We ordered that no report of the proceedings be published which identifies the Appellant, his wife, or his children or the complainants until further order and set a timetable for written submissions on the legal basis for such an order. We have received written submissions on behalf of the Appellant and the Respondent.
3. First, no statutory provision has been identified which would provide a power for the making of an order for anonymity in this case. Secondly, both parties agree that the High Court, hearing a statutory appeal against the making of an extradition order, has power to make orders to avoid an unjustified interference with a person's rights under Article 8 of the European Convention on Human Rights ("ECHR"): see *In Re Attorney General's Reference (No. 3 of 1999)* [2015] 1 A.C. 145, per Lord Phillips at paragraph 2, per Lord Hope at paragraph 13, and per Lord Brown at 54. In considering whether to make any order imposing a reporting restriction we bear in mind Article 10 of the ECHR and section 12 of the Human Rights Act 1998.
4. In relation to the Appellant, we recognise that, even if a jurisdiction exists, it would only be in exceptional circumstances that reporting restrictions should be imposed preventing the identification of a person accused of crimes: see *In re Press Association* [2013] 1 W.L.R. 1979. We take a similar approach in relation to extradition proceedings. The policy restrictions which determine that criminal defendants should be identified save in very exceptional circumstances must be taken to apply with equal force to those sought for extradition to face criminal charges. We would not continue the order imposing reporting restrictions on the identity of the Appellant.
5. In relation to the Appellant's wife and child, they have been anonymised in the judgment and their identities were not referred to during the hearing of the appeal. We recognise that the Appellant may now be identified, and it may be difficult in practical terms to prevent any identification of the wife. We have not seen any material which would justify the continuation of reporting restrictions in relation to the identity of the Appellant's wife. We would not continue the order imposing reporting restrictions in relation to her. In relation to the Appellant's children, we recognise that they are young and that reference has been made to a genetic medical condition that they have relating to their eyesight. Both the appellant and the respondent support continuing the anonymity order in relation to the children. However, the material referred to in

the judgment was relevant to the question of whether extradition would be a breach of Article 8 ECHR and is the kind of material routinely referred to in extradition cases where no reporting restrictions are imposed. On balance, we would not continue the order imposing reporting restrictions on the identity of the children. We would, however, invite any member of the press to consider whether reporting of the names of the children is necessary or in the public interest.

6. The position of the two complainants is different. The hearing dealt with the alleged sexual offences said to have been carried out on them when they were young children. Specific details were given of the alleged nature of the sexual acts. We note that Parliament has provided for the prohibition on publication of the identity of complainants in cases of specified offences against the law of England and Wales. That does not apply in these extradition proceedings, as they involve allegations of offences against the law of the Falkland Islands. Nevertheless, we see that as an important recognition of the potential impact that publication of the identity of complainants might have on the complainants. Both parties support anonymisation of the complainants. We do not consider that anonymising the identity of the complainants would materially restrict the ability of the press to report the substance of the extradition proceedings if they wish to do so. We will continue the order imposing reporting restrictions on publication of the identity of the two complainants. We will grant liberty to apply, so that members of the press or other interested persons may, if they wish, make an application to the court.
7. Finally, we observe that we are dealing with reporting restrictions under the law of England and Wales. We do not make any observations on restrictions that may be imposed by the law of the Falkland Islands, or any orders that may be made by the courts of the Falkland Islands dealing with this case. Those wishing to report any aspect of the case will wish to bear in mind the possibility of restrictions existing or being imposed under the law of the Falkland Islands.