



Neutral Citation Number: [2021] EWHC 989 (Admin)

Case No: CO/4208/2020

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21st April 2021

Before :

MR JUSTICE FORDHAM

Between :

MARIAN GUJDA
- and -
DISTRICT COURT IN JINDRICHUV HRADEX
(CZECH REPUBLIC)

Appellant

Respondent

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

Hearing date: 21.4.21

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 in an extradition case. The Appellant is aged 49 and is wanted for extradition to the Czech Republic. That is in connection with a June 2019 conviction European Arrest Warrant (EAW). Extradition was ordered by DJ Godfrey on 10 November 2020. That was following an oral hearing on 28 October 2020 at which the Appellant gave evidence. The Appellant appeared at that hearing in person. A previous hearing on 21 August 2020 had been adjourned, to allow an opportunity for the Appellant to seek legal representation. Eady J refused permission to appeal on 19 March 2021 on the papers. She concluded that neither of the two grounds of appeal, which the Appellant's then legal representatives had set out in a Grounds of Appeal document, was reasonably arguable.

Mode of hearing

2. This hearing was by BT conference call, with an interpreter. That was at the Appellant's request. I am satisfied that this mode of hearing was justified and appropriate. Open justice was secured. The case and the start time were published in the cause list. Also published was the means for members of press or public to observe the hearing. The hearing was recorded and this ruling will be released publicly in writing. The Appellant addressed me clearly and courteously, to ask for permission to appeal.

Features of the case

3. Among the features of this case are the following. On 24 February 2014 a court in the Czech Republic sentenced the Appellant to a 2 year custodial sentence. That sentence was suspended for 4 years. The sentence became final on 19 March 2014. The 4 year suspension period would expire on 18 March 2018. The 2 year sentence related to offences – burglary; violent disorder; and assault occasioning actual bodily harm – which the Appellant committed on 31 March 2013. He had previous convictions in 2006, 2008 and 2011 for a series of offences. On 20 January 2018 he committed an offence of obstruction of justice. He was convicted of that offence on 14 February 2018. He had also committed some 13 traffic offences during the 4 year suspension period. On 3 October 2018 a lower court sentenced him by substituting an extended suspended sentence. However, the prosecution's appeal to an appeal court was successful and on 9 November 2018 the suspended sentence was activated in full. That meant the Appellant was required, and is still required, to serve the 2 years in custody. The Appellant left the Czech Republic at the end of 2018. He was arrested on 16 May 2020 in conjunction with the EAW. It had been certified on 17 April 2020. The Appellant had come to the United Kingdom with his wife, grandchildren and daughter. She is aged 10 and came to them – originally temporarily – as a foster child. They adopted her and she is settled at school here, as their daughter. The Appellant has extended family members in the United Kingdom. He has been on bail and is currently working.

Section 20

4. Although the Appellant's notice of renewal makes points about private/family life (ie. the Article 8 ground of appeal), he is a litigant in person and I consider it appropriate to address the other ground of appeal which was before Eady J in the Grounds of

Appeal. That ground concerned section 20 of the Extradition Act 2003. The contention was this: since the activation took place at a hearing at which the Appellant was absent, section 20 bars extradition. The Appellant was personally served with a summons on 16 August 2018, which started the process in relation to activation. He was personally served with a summons (which he signed) on 6 December 2018 calling on him to serve the activated sentence. He denied receiving the 6 December 2018 summons. But the District Judge made an unimpeachable finding of fact that he had received it and signed it. On the section 20 ground of appeal, Eady J was satisfied of two things: (i) that activation was not a section 20 ‘conviction’ at least in circumstances where the nature and quantum of the custodial sentence were unaltered (citing Case C-571/17 PPU Ardic para 77); and (ii) that the facts supported the conclusion that the Appellant was either ‘deliberately absent’, or at the least had demonstrated a ‘manifest lack of diligence’. Either of these would be fatal. It is enough for me to say that I am satisfied that point (ii) is plainly right. The facts in relation to the two summonses (at the beginning and end of the activation process) put it beyond any reasonable doubt that any absence from either the lower court or appeal court hearings was ‘deliberate’ or involved ‘a manifest lack of diligence’ by the Appellant. In those circumstances, I have not needed to look at the PPU Ardic point. I cannot give permission to appeal on the section 20 ground. I am satisfied that it could not succeed.

Article 8

5. I turn to Article 8. The District Judge carefully elicited factual information from the Appellant, relating to: his private and family life; and the impacts of extradition, including on the Appellant’s daughter. The District Judge put in the balance in favour of extradition: the weighty public interest considerations in support of extradition; especially where, as he (unimpeachably) found, the Appellant was a fugitive; the relatively short passage of time, it being two years (at the time of the hearing before DJ Godfrey) since the activation and since the Appellant and his immediate family had come to the United Kingdom; the need to accord proper mutual confidence and respect to the decision to request extradition; and that the fact that the custodial sentence is not a short one. The District Judge put in the balance against extradition: the Appellant’s life in this country with his family, his employment and lack of offending in the United Kingdom; the financial support and contribution to emotional well-being that he makes; the interests of his daughter as ‘a primary consideration’; the fact that the offences are ‘not of great seriousness’ and the term of imprisonment is ‘not particularly long’. The District Judge concluded that no feature or combination of features rendered interference with Article 8 rights of the Appellant, his wife, his daughter or his grandchildren disproportionate, there being inevitable hardship for the family which would not be exceptionally severe.
6. In his grounds of renewal document the Appellant emphasised the following: that he has no relatives in the Czech Republic; that his whole family is here in the United Kingdom; that he seeks strictly to abide by the law and would continue to do so in the United Kingdom; that he works, notwithstanding the difficulties of the Covid-19 lockdown; that his wife is sick; that he tries his best to work and raise his family; that they raise their daughter and his grandchildren together; that he helps his daughter; and that it would be very difficult for all of those family members to be separated. At the hearing today the Appellant told me the following: that he would like to stay here and all his family are here; that family members are ill; that he has been working here; that

it is ‘the opposite’ in the Czech Republic and that his last remaining family member there, his sister, has passed away; that he has been under what he called ‘house arrest’ and has followed all the rules here; that if he is extradited to the Czech Republic his family will suffer, especially his wife, daughter and grandchildren; that he has been living here according to the rules and done nothing contrary to justice in the United Kingdom; that in the Czech Republic he and his family experienced racism against the Roma people; that his daughter also experienced racism in the Czech Republic; that the position is much better in the United Kingdom where they have experienced no racism.

7. I can only give permission to appeal if I am satisfied that there is a ground of appeal with a realistic prospect of success. I cannot give permission to appeal in this case. That is because, after carefully considering all the points in this case, including all the points that were made in the appellant’s document and the points that he has made to me this morning, in my judgment there is no reasonably arguable Article 8 ground of appeal. I agree with Eady J: it is not reasonably arguable that this Court on a substantive appeal would find any error of approach, or as to the outcome, by the District Judge. There is no realistic prospect that this Court, at a substantive hearing, would conclude that the features of the case – those emphasised by the Appellant, and any others which the Court could identify – capable of counting in the balance against extradition could combine to outweigh: the public interest considerations in favour of extraditing the Appellant to serve the custodial sentence imposed in the Czech Republic, being a sentence of 2 years custody, arising out of his criminal offending there, which sentence he evaded by coming to this country two years ago having been personally served with a summons. The District Judge was in my judgment – beyond reasonable argument – right as to the outcome: the considerations in favour of extradition decisively outweigh those against it.

Conclusion

8. In those circumstances and for those reasons permission to appeal is refused.

21.4.21