



Neutral Citation Number: [2023] EWHC 2857 (Admin)

Case No: CO/727/2023  
AC-2023-LON-000860

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Tuesday, 14<sup>th</sup> November 2023

**Before:**  
**FORDHAM J**

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**Between:**  
**PAWEL TOMASZ CHROBOT** **Appellant**  
**- and -**  
**POLISH JUDICIAL AUTHORITY** **Respondent**

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

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Hearing date: 14.11.23

Judgment as delivered in open court at the hearing

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**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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FORDHAM J

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

## **FORDHAM J:**

### **Mode of Hearing**

1. I acceded to an invitation from Counsel to hear this application for permission to appeal as a remote hearing at 09:30 today. I was satisfied that this course was justified, to minimise the impact on another hearing in another court, and to enable two clients to retain their Counsel of choice, all in circumstances where the Respondent was known not to be participating today. My clerk dealt with the hearing. The case and its start time were published in the cause list. It was open to any member of the press or public who wished to attend this public hearing to contact the Court for the link. This judgment is released into the public domain. I am satisfied that open justice has been secured.

### **Introduction**

2. The Appellant is aged 36 and is wanted for extradition to Poland. That is in conjunction with a conviction Extradition Arrest Warrant issued on 14 October 2013 and certified 9 years later on 29 August 2022, on which he was arrested on 6 September 2022. He has been on qualifying remand ever since then. As Mr Hepburne Scott emphasises today, that is currently a period of 14 months of qualifying remand. District Judge Tempia (“the Judge”) ordered extradition on 22 February 2023 after an oral hearing on 10 February 2023.
3. There are two index offences. The first is an offence of robbery including a threat to kill, committed by the Appellant on 1 December 2008 when he was aged 21. Having been interviewed in December 2008 in relation to that, he then appeared in court in Poland in May 2009 and a suspended sentence of two years imprisonment was imposed on him, with a suspension period of five years. The second is an offence of burglary of a warehouse committed in July 2009 also aged 21, 2½ months into the suspended sentence for the robbery. Following conviction on the warehouse burglary offence, and the imposition in October 2010 of an 18 month custodial sentence for that offence, the two-year suspended sentence for the robbery was then fully activated on 19 January 2011. The Judge found as a fact, although this had been denied by the Appellant, that he was present at the activation hearing on 19 January 2011, as is recorded in the Respondent’s documentation.
4. The Appellant came to the UK later in 2011. He met his partner in about 2013 and at the time of the hearing before the Judge they had been together for some 10 years and were intending to get married. The qualifying remand at the time of the Judge’s judgment was some 5 months custody and at the time of Kerr J’s refusal of permission to appeal on the papers it was some 12½ months custody. As at today, as I have mentioned, it is just over 14 months custody.

### **Discussion**

5. Mr Hepburne Scott’s submissions, in support of an overarching contention that the outcome on the Article 8 (private and family life) compatibility of extradition was reasonably arguably wrong, emphasise a number of features of the case.
6. The first has been abandoned today. This was a criticism of the Judge for finding as a fact that the Appellant had left Poland as a fugitive, both in respect of the activated

robbery matter but also the burglary matter. What was said was that, in respect of the burglary, there was an insufficient evidential basis for an adverse finding to the criminal standard. Mr Hepburne Scott has not maintained that argument today. In my judgment he is right to recognise that it is not a sustainable argument. The Judge unassailably found as a fact that the Appellant had been present at the activation hearing on 19 January 2011. The whole basis of the activation was the burglary offending. It is obvious that the Appellant was aware of both matters when he chose to leave Poland. That is what the Judge found. I can, in any event, see no basis on which a distinction between classifying the Appellant as a fugitive in robbery terms, but not a fugitive in burglary terms, could realistically make a difference to the Article 8 analysis in this case.

7. Secondly, and maintained, there is a criticism of the Judge so far as the passage of time is concerned. Mr Hepburne Scott has adopted the submissions that he made in writing which I have pre-read. It is accepted that the Judge unassailably found that there was no culpability by the Polish authorities in the steps that they had taken to pursue the Appellant. What is said is that the Judge ought to have found culpability on the part of the British authorities in the 9 years between 2013 and 2022 in certifying the Extradition Arrest Warrant. The point is made that that 9 year passage of time could not be “attributed” to the Appellant. But the Judge did not do that. She expressly found, as a point in the Appellant’s favour in the Article 8 balance, that that 9 year passage of time constituted “unexplained” delay on the part of the UK authorities. I cannot accept, in the circumstances of the present case, that an argument about “unexplained” on the one hand and “culpable” on the other, can make a material difference.
8. Thirdly, and most importantly, there are a number of points which combine to constitute an invitation to the High Court to re-strike the Article 8 balance. That is in the light of the Appellant’s good character in the UK, the long-standing relationship with the partner, the question of ongoing qualifying remand, and also the prospect of early release. The early release point is put in terms of the Appellant having now served more than half (14 months as at today) of the two-year activated sentence for the robbery. Looking at the case in that way, Mr Hepburne Scott invites the Court to conclude that the Appellant would almost certainly be early-released on that matter, and then to analyse this case as really solely referable to the burglary offence and the 18 month custodial sentence relating to that offence, the relative lack of seriousness of that offence, combined with the Appellant’s age, his lack of subsequent offending, the passage of time and the impact of extradition.
9. I do not accept that the robbery sentence can be ‘displaced’ in this way, by using the qualifying remand selectively, and by reference to a prospect of early release. But even if it were right to approach the case in that way, the well-known public interest factors in favour of extradition would still in my judgment plainly and decisively outweigh the features of the case capable of weighing against extradition. The contrary is not in my judgment reasonably arguable. That includes when full weight is given to the respects in which the passage of time is capable of adding to the weight of the private and family life considerations – as it plainly does in this case given that that is the context for the decade-long relationship with the partner and other points such as the period without any further convictions – and capable of reducing the public interest weight supporting extradition. Standing back, there is in my judgment no realistic prospect that a Court at a substantive hearing would reach a different conclusion and overturn the outcome in

**FORDHAM J**  
**Approved Judgment**

this case as wrong. In conducting that analysis, I have not ‘projected forward’ further ongoing qualifying remand to some future date, since that would be wrong in principle for the reasons that I explained in Molik v Poland [2020] EWHC 2836 (Admin).

10. In those circumstances and for those reasons, the application for permission to appeal is refused.

14.11.23