Neutral Citation Number: [2024] EWHC 1139 (Admin)

Case No: AC-2023-LON-003212

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

Tuesday, 14th May 2024

Before:
FORDHAM J

- -

Between:

LESZEK MACIEJ GWIAZDECKI	**Appellant**
- and -	
POLISH JUDICIAL AUTHORITY	**Respondent**

- -

- -

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

- -

Hearing date: 14.5.24
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 40 and is wanted for extradition to Poland. In October 2013 he was sentenced there to 14 months custody, suspended for 4 years, having been convicted of threats to kill and concealment of an identity card. In January 2016 he was sentenced in Poland to 12 months custody, having been convicted of a sexual assault committed in May 2015. In October 2016 the 14 month custodial sentence previously suspended was activated in full, in light of the May 2015 offending. A first conviction Extradition Arrest Warrant (ExAW) was issued on 26 April 2022 in respect of both the 14 months custody and the 12 months custody – 2 years 2 months overall – recording that the Appellant had 20 months and 17 days to serve. The Appellant was arrested on that ExAW on 11 October 2022 and was remanded in extradition custody, where he has remained. That means he has been clocking up qualifying remand, deductible from sentence. In November 2022 the Appellant made an application for an aggregation of his sentences by the Polish court, as a consequence of which in April 2023 the sentences were aggregated to 2 years 2 months and the first ExAW was withdrawn. On the same day (13 July 2023), the Appellant was both discharged on that first ExAW and then rearrested on a new and replacement ExAW issued on 1 June 2023. That new ExAW refers to the same (albeit now amalgamated) 2 years 2 months custody, and refers to the same 20 months and 17 days to serve.

2. On 27 October 2023 District Judge Snow ordered the Appellant's extradition, after an oral hearing the same day. The Judge disbelieved the Appellant in relation to his uncorroborated claims of a serious heart condition and financial support up to October 2022 of his 4 children in Poland. The Judge found that the public interest considerations in favour of extradition decisively outweighed those capable of counting against it.

3. The Judge found the Appellant to have come to the United Kingdom as a fugitive in 2017. I cannot accept Mr Hepburne Scott's submission, in writing and adopted orally, that the finding on fugitivity is arguably wrong. The facts that there was no restriction on travel and that the Appellant has lived openly in the United Kingdom and participated in the aggregation application from custody here, cannot assist. The Judge made unassailable findings about the Appellant having left Poland, fully aware of his 12 month sentence and of the activation of his 14 month sentence and it was plainly open to the judge, with the benefit of oral evidence and cross-examination, to be sure that he left as a fugitive.

4. What about the qualifying remand? Mr Hepburne Scott understandably puts that at the forefront of his oral submissions today. The Judge recorded that the 20 months 17 days to serve – repeated in the new ExAW – would stand to be reduced by the qualifying remand clocked up since 11 October 2022. At the time of the judgment, that was 12½ months. We are now 6½ months further on, which would mean 19 months 3 days of qualifying remand. However, this cannot in my judgment found the basis of a grant of permission to appeal for the same reasons I recorded in Molik v Poland [2020] EWHC 2836 (Admin): the Court does not "project forward" to a substantive hearing absent an independently durable anchoring feature (§19); and 6 weeks to serve does not even arguably fall within the very short period of time justifying discharge (§11). On these points and all others relied on, including in combination, there is no reasonably arguable Article 8 ground of appeal and I will refuse permission to appeal.

14.5.24