



Neutral Citation Number: [2024] EWHC 3324 (Admin)

Case No: AC-2023-LON-002184

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 20/12/2024

Before :

MR JUSTICE SHELDON

Between :

MARCIN PRAWDZIK	<u>Appellant</u>
- and -	
REGIONAL COURT OF BIALYSTOK, POLAND	<u>Respondent</u>

Ania Grudzinska (instructed by **AM International Solicitors**) for the **Appellant**
Claire Stevenson (instructed by **CPS Extradition Unit**) for the **Respondent**

Hearing dates: 4 December 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 20 December 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE SHELDON

Mr Justice Sheldon

1. Marcin Prawdzik (the Appellant) appeals against the decision of District Judge Minhas extraditing him to Poland. The decision was made on 13 July 2023. Permission to appeal was granted by Murray J on 25 April 2024.
2. The primary issue on this appeal is the approach to be taken by the Court when dealing with a request for extradition based on an arrest warrant which is both a conviction and accusation warrant, where the facts and relevant legal tests are not common to the different matters. This issue was not initially identified by the Appellant in his Grounds of Appeal: the focus was on whether the District Judge had found the Appellant to be a fugitive on the accusation offences. This ground of appeal is no longer pursued.
3. The issue as to how to approach arrest warrants which contain both conviction and accusation matters was raised by Sir Duncan Ouseley, sitting as a High Court judge, when considering application for permission to appeal on the papers on 14 February 2024. In his observations, Sir Duncan Ouseley stated that:

“1. I accept that the District Judge did not find the RP to be a fugitive on the accusation offences, the two in 538/11, but did find him to be a fugitive on the conviction offences, 1 year, 5 months and 10 days left to serve. Thereafter, the District Judge did not consider the balancing exercise under Article 8 separately for the conviction and accusation offences. That does not appear to be the way an aspect that was argued; the RP’s focus was on fugitivity in relation to the conviction offences. Nor is that the way the case is put in the PGA, which instead relies on the false point that the District Judge found the RP to be a fugitive in relation to the accusation warrant.

2. However, the real issue which then arose was whether the Article 8 balancing exercise for the accusation warrant in the circumstances of this case should have been handled separately, and if so whether the passage of time for which the RP was not responsible at all meant that extradition to face trial was disproportionate, whether he was extradited on the conviction offences or not. Extradition on the conviction warrants would not necessarily have made extradition on the accusation warrant proportionate in view of the real possibility of conviction and further sentence. It would be a significant extra potential burden.

3. Moreover, if he were not be extradited on the accusation warrant, it is possible (just) that the proportionality of extradition on the conviction warrants would be arguable.”

The appeal has been argued before me on the basis identified by Sir Duncan Ouseley.

4. A further issue that arose at the oral hearing before me was an application to adduce fresh evidence. Ania Grudzinska, who appears on behalf of the Appellant, submitted that the Appellant’s circumstances had changed in that he was no longer living with his

partner, and that for a period of time he had been drinking heavily again. I agreed to look at this evidence *de bene esse*, and would determine whether the fresh evidence should be considered having heard all of the arguments on the appeal.

Background

5. The Arrest Warrant was issued on 17 February 2022, and certified by the National Crime Agency on 15 September 2022. It was executed on 6 October 2022. The Appellant did not consent to his extradition.
6. The Arrest Warrant concerns 2 convictions: case number 551/10 and case number 1186/10. Both were decisions of the Bialystok District Court. Both convictions concerned the Appellant driving under the influence of alcohol. Case number 551/10 was based on an incident on 21 February 2010. The Appellant appeared in person at the trial of Case number 551/10 on 17 June 2010, which resulted in a custodial sentence of 6 months, conditionally suspended, and a ban on driving for 2 years. Case number 1186/10 was based on an incident on 12 September 2010, during the period of the ban. The Appellant did not appear in person at the trial of Case number 1186/10 on 27 December 2010. The conviction resulted in a custodial sentence of 1 year, and triggered the execution of the conditional suspension for case number 551/10.
7. Although the Appellant did not appear in person at the trial of Case number 1186/10, the Arrest Warrant states that the summons for the trial was sent to the address provided by the Appellant for delivery, which was served on his wife who was obliged to hand over the writ to the Appellant. The remaining sentence to be served in respect of both matters is 1 year 5 months and 10 days.
8. The accusations (case number 538/11) relate to two charges. First, on 12 September 2010, during a police road check, the Appellant is accused of using as authentic a forged British driving licence, which he had forged during an undetermined period between 27 March 2007 and 12 September 2010 in an undetermined place in the United Kingdom or in Poland. Second, on 4 January 2011 (the Arrest Warrant erroneously refers to the year 2010), the Appellant is accused of driving while under the influence of alcohol, having previously been convicted of the same. There was no restriction on the Appellant leaving Poland and no obligation to report a change of address for this case.
9. At the hearing before the District Judge, the Appellant gave live evidence as did his then partner, Jolanta Borycko. The key points of the Appellant's evidence were identified by the District Judge as follows:
 - He denied any knowledge of the offences of which he has been accused
 - He denied he was aware he received a suspended sentence or that he was disqualified for driving for two years
 - He explained he was an alcoholic, if the police asked him to sign a document which would mean he could leave the station, he would have signed it
 - He did not recall signing a document which obliged him to inform a change of residence lasting longer than 7 days

- He was in the process of divorce from his ex-wife in 2010, they were not on speaking terms
- He did not know about the summons
- He found out about the proceedings when he was arrested in the United Kingdom
- The RP (Requested Person) explained he had not seen his son for 12 years, he is finally having contact again over the past four years, and now he may lose that due to mistakes he had made in the past
- He accepted if the JA stated he signed a document on a specific date and time, he has no reason to suggest that is incorrect. He accepted he may have signed a document which he cannot recall.
- He accepted he did not inform the authorities of a change of address, because he did not know he had to
- He signed the papers given to him at the police station without reading them because he wished to leave
- He maintained he did not know about the suspended sentence of imprisonment or that the sentence could be activated if he committed a further offence
- He denied he may have attended the trial and cannot recall
- He commented he was probably interviewed on 14 September 2010 for offence of 12 September 2010 because the police had to wait for him to sober up
- He cannot recall providing his wife's address for correspondence but most likely he did as he was still living there when in Poland until he started divorce proceedings
- He accepted he did not inform the police of a change of address
- He did not speak to his ex-wife for over four years as he was street homeless so she could not have notified him of the summons
- He denied his ex-wife informed him of the summons
- He accepted he was in Poland on 4 January 2011
- He left Poland after 4 January 2011
- He did not inform the authorities that he had left or of an address in the United Kingdom
- Both he and his partner are working in the United Kingdom

- His son lives with his ex-wife in Poland, and visits the RP in the United Kingdom
- The RP has settled status in the United Kingdom

10. With respect to the Appellant's partner, the District Judge identified the following key points:

- She has three adult children, one in the United Kingdom and two in Poland
- She helps her youngest son financially whenever she can
- Rent and bills are £800-1300 a month and she earned £1300 a month
- Her income is used for food whilst the RP paid the rent and bills
- She did not consider her salary was enough to cover her living expenses if the RP is extradited
- Her United Kingdom based son has 5 children of his own and is unlikely to be able to assist her
- She believed she was not eligible for universal credit
- She cannot stay in their current accommodation if the RP is extradited as it is social housing provided to the RP

11. The District Judge made a number of findings. She found that the Appellant was a fugitive. It is now accepted by the Appellant that this refers to the conviction warrant. The District Judge found that:

“The RP knew he was subject to obligations to report a change of address having been present at the trial hearing and in view of his signature confirming the same. He further knew proceedings were pending, a summons was issued in respect of III K 1186/10 and he left the jurisdiction of the JA. He did not return to Poland thereafter, despite his son remaining in Poland and despite his ex-wife filing for divorce some ten years ago, which was granted in his absence. I find he did not return because he knew these matters were outstanding and he did not want to be arrested. In evidence he had some memory of events in general, recalled he had been arrested, and interviewed even if he could not remember the detail. I simply do not find it credible that the first he knew of his convictions was his arrest in these proceedings”.

12. With respect to his life in the United Kingdom, the District Judge found that:

“he has lived an open life in the UK. He has addressed his alcohol misuse with the assistance of a charity. He is provided with social housing which he shared with his partner. They are

both in work and manage their finances. The RP has re-established contact with his now 18-year old son who has visited him in the UK. His son ordinarily resided in Poland with his mother. Both the RP and his partner have connections to Poland. The RP's partner has two adult children in Poland and is of Polish origin".

13. The District Judge addressed the key legal submissions. She found that each of the acts that are the subject of the Arrest Warrant amount to an extradition event. The District Judge then addressed Article 8 of the European Convention on Human Rights, referring to the leading cases of *Norris v Government of USA* (No2) [2010] UKSC 9, *HH v Italy* [2012] UKSC 25 and *Polish Judicial Authorities v Celinski & Others* [2015] EWHC 1274 (Admin).
14. The District Judge set out the factors in favour of granting extradition and those against. In favour were the following:
 - i) There is a strong and continuing important public interest in the United Kingdom abiding by its international extradition obligations. There is a strong public interest in offenders being brought to justice.
 - ii) The decisions and processes of the JA should be afforded mutual confidence and respect.
 - iii) The RP is a repeat offender, convicted of offences of driving with excess alcohol and driving whilst disqualified. The accusation matters relate to a further driving with excess alcohol offence for which he could be imprisoned for a period of up to five years.
 - iv) The RP is required to serve the balance of the sentences imposed of 1 year, 5 months and 10 days. This is not an insignificant period.
 - v) The RP is a fugitive. The RP is not of good character in this jurisdiction, he is currently subject to a suspended sentence of imprisonment.
 - vi) The RP is of Polish origin and has an adult son in Poland.Against were the following:
 - i) The RP has lived in the United Kingdom on/off since 2000.
 - ii) The RP has a partner and provides financial assistance to his 18-year-old son. The RP is in work.
 - iii) The RP has addressed his alcohol misuse. The RP has emotional issues with thoughts of self-harm.
 - iv) The delay in issuing the AW since 2010/11 until 2022.
15. The District Judge then weighed up these factors and concluded that it would not be a disproportionate interference with the Appellant's Article 8 rights for extradition to be

ordered. The District Judge's reasoning was set out at paragraph 46 of her judgment as follows:

“i. It is very important for the UK to be seen to be upholding its international extradition obligations and the decisions of the JA should be afforded proper mutual confidence and respect. It is important that offenders are brought to justice and that the UK is not considered a safe haven for fugitives. All of these factors weighed heavily in favour of extradition.

ii. The totality of the RP's offending is serious. He repeatedly drove a motor vehicle whilst subject to a suspended sentence of imprisonment and whilst disqualified from driving. He has 1 year, 5 months and 10 days to serve and is likely to receive a further custodial sentence if convicted of offences 1 and 2. The RP is not of good character in this jurisdiction, he is subject to a suspended sentence of imprisonment. The outstanding sentence to serve is not a short or insubstantial period and I weighed all these factors firmly in favour of extradition.

iii. I have found the RP to be a fugitive which also weighed in favour of extradition. The RP ought not to benefit from his decision to leave Poland. The RP required strong counterbalancing factors to mitigate against removal.

iv. I find there is no culpable delay by the JA. The RP left Poland after 4 January 2011. He did not return. There is some, albeit limited, explanation that a domestic search was conducted for the RP, he could not be located, and a warrant issued. The JA discovered in June 2021 that he was in the UK, an AW was subsequently applied for. There is delay between 2010/11 and the issue of the AW in 2022 but given the RP is a fugitive, did not return to Poland after 2011 and the JA did not become aware until 2021 that he was in the UK, I do not find the JA to be at fault. A domestic search was conducted, that was not fruitful. The JA then took further action in applying for the AW when they received information, he was in the UK in 2021. I find the delay was significantly contributed to by the actions of the RP and I placed little weight on it in the balancing exercise overall.

v. I do not accept the RP has been permanently settled in the UK since 2004. He had a marital home, wife and child in Poland. He travelled to the UK for work but his base, appeared to me to be, in Poland until 2010/11. His evidence was that he did not return to Poland thereafter. I accept he had been in the UK on/off between 2000 and 2011. I accept he has a settled private life in the UK since 2011, and with his partner for the last 7-8 years, although that was precariously built on his fugitive status. The RP had a troubled early life and adulthood due to alcohol misuse. He benefitted from the support of a charity and addressed those issues. He has accommodation, employment and the support of

his partner and support worker. There is no evidence before me to suggest that he cannot return to the UK once he has served his sentence and avail himself of this support again, particularly in view of his settled status. The RP appeared to have been clear of his alcohol issues for some years. There was no evidence that he is at imminent risk of relapse if extradited to Poland. It is suggested that he had no support in Poland, but his 18-year-old son resides in Poland and they have been in contact for the last four years. There was no evidence the RP could not avail himself of his son's support for a short period upon release from imprisonment pending a return to the UK. His partner's two adult children also reside in Poland. I acknowledge extradition is an interference to the RP's settled private life in the UK but on the evidence before me, I did not place great weight on the RP's settled life in the UK as a factor militating against removal.

vi. The RP's PoE and SoI referred to his emotional issues, which resulted in historic self-harm, and he stated he had current feelings of self-harm. There is no medical evidence produced before me. There is no evidence the RP is in receipt of any treatment or other support for his emotional issues. The JA are a signatory to the ECHR. The presumption is they will be able to provide appropriate medical care to the RP if required. I find the RP's emotional issues do not sufficiently militate against extradition.

vii. The RP and his partner have been in a relationship for 7-8 years, clearly there is an interference in their private life if the RP is extradited. The RP's partner is of Polish origin. She has two adult children in Poland and there was no evidence that they could not support her if she chose to return to Poland to be with the RP. Alternatively, if she chose to remain in the UK, the RP's partner is in work, her current income was enough to pay for accommodation and bills. I acknowledge she will have to leave the address she shared with the RP and find alternative accommodation. Whilst this may involve compromise or some hardship to find affordable accommodation for her and their two dogs, I do not find it to be exceptionally severe to render the impact of extradition as disproportionate. There is no evidence before me that the RP's partner was vulnerable. The impact upon her is that she will lose the financial support of the RP and must source alternative accommodation, I find this is not unusual in the context of extradition proceedings.

viii. On the evidence before me, the individual or combined weight to be attributed to the main factors militating against extradition; the financial impact on the RP's partner, the likelihood that she will have to change accommodation, the emotional impact on the RP and the risk of self-harm, the limited explanation for the delay in issuing the AW between 2011 and

2022 and the RP's progress in addressing his alcohol issues, maintaining employment and obtaining stable accommodation are not such that they amount to strong counterbalancing factors which outweigh the public interest in favour of extradition. I find those strong counterbalancing factors referred to in Celinski do not exist in this case. The evidence of hardship and the impact which will result from extradition does not go beyond that which is often present when extradition is ordered. I find the consequences of extradition are not so significant that they will have a disproportionate impact on the Article 8 rights of the RP, his partner or his adult son".

16. At paragraph 47, under the heading "Proportionality", the District Judge held that:

"I have considered proportionality pursuant to s21A(2) and (3). The offences with which the RP is accused are allegations of using a forged document and of creating that forged document. I find both are serious matters, and imprisonable up to 5 years each in Poland. There is no evidence that the JA is willing to pursue less coercive measures in place of extradition. I therefore find that the extradition of the RP will not be disproportionate".

The Submissions

17. On this appeal, Ms Grudzinska, counsel for the Appellant, submitted that the District Judge erred in not considering the balancing exercise separately in respect of the conviction and accusation matters, given that the District Judge did not find the appellant to be a fugitive in respect of the accusation matters. As a result, the District Judge confused some of her findings. This was particularly so at paragraph 46(iv), where the District Judge appears to have dealt with the delay stemming from the finding of fugitivity in the same way for both matters. The District Judge did not separate the fact that delay on the accusation matter ought to have been given much more weight, given that the Applicant was not a fugitive. Similarly, at paragraph 46(v), where the District Judge found that "I accept he has a settled private life in the UK since 2011, and with his partner for the last 7-8 years, although that was precariously built on his fugitive status."
18. Ms Grudzinska also pointed out that there was a paucity of evidence as to the reason for the delay with respect to the accusation matter. This delay impacted on the Appellant, rendering the effects on the Appellant exceptionally severe. In addition, Ms Grudzinska contended that the District Judge had overstated the seriousness of the accusation offences. The District Judge had found that the offences were serious matters, imprisonable up to 5 years each in Poland. They would not have been treated so seriously in this country. Ms Grudzinska submitted that the case of *Miraszewski v District Court in Torun, Poland* [2015] 1 WLR 3929, was authority for the proposition that domestic sentencing guidelines could be taken into account when considering extradition where the requesting authority has, as in this case, only provided a range of sentences that might be applied. Ms Grudzinska submitted that even if the District Judge was not in error in extraditing the Appellant for the conviction matter, it would be disproportionate to extradite him for the accusation matters.

19. With respect to the conviction matters, Ms Grudzinska submitted that it would be disproportionate to extradite the Appellant for these. Reference was made to the age of the Appellant, and his change in life and lifestyle. It was submitted that the only purpose for the Applicant to be extradited to Poland would be a purely punitive one. If the Appellant was extradited, he would lose his accommodation in this country and would become street homeless again in Poland as he does not have any accommodation there. Ms Grudzinska submitted that these factors have been entirely underplayed by the District Judge.
20. At the oral hearing, Ms Grudzinska addressed the significance of the new evidence: she acknowledged that the Appellant could no longer rely on the impact of extradition on his partner, as they were not together anymore, and could no longer rely on the settled life that he had previously had with his partner. On the other hand, the evidence of the Appellant's relapse and return to alcohol meant that this increased the risks to him if he was to be returned to Poland. In addition, Ms Grudzinska stressed that although the Appellant currently had the support of a case worker and access to social housing, this could not be guaranteed if the Appellant sought to return to the United Kingdom following his extradition to Poland and his serving time in prison there.
21. Claire Stevenson made submissions on behalf of the Respondent. She submitted that the District Judge did not err in failing to handle the conviction and accusation warrant matters separately when carrying out the Article 8 balancing exercise. Reliance was placed on a number of authorities including *Zakrewski v Regional Court in Warsaw* [2015] EWHC 3393 (Admin), and *Dyko v Polish Judicial Authority* [2021] EWHC 2910 (Admin), which suggested that the conviction and accusation matters should be considered together. Furthermore, it was clear from reading the District Judge's decision, that she understood that different factors applied to the conviction and accusation matters.
22. Ms Stevenson contended that even if the conviction and accusation matters were dealt with separately, and the Court carries out its own balancing exercise, the same conclusion of extradition for both sets of matters would be reached. This was also the case even if the Court was to conduct the balancing exercise taking into account the new material that the Appellant seeks to adduce.
23. Ms Stevenson submitted that the new material cuts both ways: the end of the relationship with the partner meant that there was less of a settled life in the United Kingdom to be disturbed and the impact on the partner could not be taken into account; on the other hand Ms Stevenson accepted that the departure of the partner and the recent relapse into alcohol abuse did increase the risk that the Appellant would suffer such a relapse if he was extradited to Poland.

Discussion

24. I shall deal first with the approach that the District Judge should have taken to the fact that the arrest warrant related to both conviction and accusation matters. The two authorities that are most illuminating in this area are *Zakrewski v Regional Court in Warsaw, Poland* [2016] 4 WLR 23, and *Andrzej Dyko v Polish Judicial Authority* [2021] EWHC 2910 (Admin).

25. In *Zakrewski*, Irwin J considered two appeals in respect of the same appellant relating to two different arrest warrants. In respect of both matters, the District Judges who had heard the cases in the Magistrates' Court had found the appellant to be a fugitive. Irwin J rejected the submission that the two appeals should be considered separately in respect of all issues. Irwin J stated that this would create a difficulty where there are matters that are common to multiple appeals. In the cases before him, the substance of the matter under both heads and both appeals was identical: whether it would be disproportionate to extradite, given the impact on the appellant's private and family life.
26. Irwin J set out submissions made by the respondent as follows:

“20 Ms Farrant for the IJA relies on that approach, and submits that the appellate court must take into account the reality of the appellant's current situation in assessing the merits for article 8 and proportionality. Section 27(1) of the Extradition Act 2003 permits the court to take into account changed facts which materially affect the case and conduct the balancing exercise afresh.

21 Ms Farrant also relies on the guidance from Lord Thomas of Cwmgiedd CJ contained in the *Practice Direction (Criminal Proceedings: Various Changes)* (2014) [2014] EWCA Crim 1569; [2014] 1 WLR 3001, as to how to proceed under section 21A of the Act. The guidance is clear that multiple charges and multiple extradition requests are matters which may make it proportionate, and thus lawful, to extradite in relation to an offence which might otherwise be regarded as too trivial, and an insufficient foundation for extradition: see rule 17A.4.

22 Thus Ms Farrant submits that the appeals here must be considered with all matters in mind. No question of proportionality can properly be decided without reference to everything which underpins the public interest in extradition being weighed in the balance. For example, if hypothetically EAW1 was in respect of a relatively minor offence, committed or allegedly committed a long time ago, whereas EAW2 arose in respect of a very serious offence committed recently, it would be wholly artificial to refuse extradition on the former by reference to an article 8 impact rendered quite academic by the latter.”

At paragraph 23, Irwin J stated that he accepted these submissions:

“The essence of any consideration of proportionality is to take all relevant matters into account, and balance the competing factors and interests”.

27. Irwin J continued:

“24. It is important to emphasise that this approach is consistent with the guidance from the Lord Chief Justice, and is not

inconsistent with the emphasis laid by the *Divisional Court in Polish Judicial Authorities v Celinski* [2015] EWHC 1274 (Admin); [2016] 1 WLR 551, on the threshold for successful appeal being a finding that the decision at first instance was “wrong”. *Celinski* was intended to restate and emphasise that an extradition appeal is not a re-hearing. In my view, that approach in no way precludes looking at matters in the round, when considering proportionality on facts as they are here. The alternative would be absurd. A trivial offence could properly lead to extradition if listed in the same warrant as a serious offence (following the Guidance) but a different outcome would be reached if the serious offence was in a separate warrant before the court on the same day.

25 I should also stress that this approach only arises where the proportionality of extradition is in question. Where formal defects are, or may be, in question, each warrant will of course be the subject of separate and discrete consideration.”

28. The approach of Irwin J in *Zakrewski* was applied by Holman J in *Andrzej Dyko v Polish Judicial Authority* [2021] EWHC 2910 (Admin), considering two conviction warrants concerning offences that were committed several years apart; and also by Sir Wyn Williams, sitting as a judge of the High Court, in *Demeter v Czech Republic* [2019] EWHC 88 (Admin).

29. In *Dyko*, Holman J recognised at [43] that where different considerations apply to accusation and conviction warrants concerning the same individual “there may be no tension or illogicality in discharging the Requested Person in relation to the accusation warrant, but, nevertheless, ordering his extradition in relation to the conviction warrant. That, however, is all for another day.” On the facts of that case, however, Holman J held at [48] that

The plain fact of the matter is that . . . this Requested Person will be extradited, in any event. He has to serve just over two years of imprisonment under EAW2 and, frankly, there is no residual weighty Article 8 ground or reason for refusing extradition in relation to EAW1 and the outstanding term of about five months.”

30. In my judgment, the principle to be derived from these cases is that where the key issue on the appeal is the Article 8 analysis, conviction and arrest matters (whether contained in two separate warrants, or in the same warrant) should be looked at together and proportionality should be looked at in the round if the issues and facts relevant to the Court’s analysis are common to one another, and the same approach to the various factors is to be applied. That would be the case, for instance, where (as in *Zakrewski*), the applicant was a fugitive for both conviction and accusation matters whether they were contained in different warrants or in a single warrant.

31. The cases do not deal with the situation where, as in this case, the issues and facts relevant to the Court’s analysis are not common to one another. It seems to me that in those circumstances a different approach should be adopted so as to ensure that the

proper analysis is conducted. After making findings of fact, the Court should conduct the Article 8 analysis separately for each of the matters and should then look at both matters together so that the interplay between the two matters can be considered and questions of proportionality can be looked at in the round.

32. Thus, where the Court decides – having applied the relevant test to the facts of the different matters separately – the balancing of factors favours extradition on one set of matters (eg the conviction matters), but not for the other set of matters (eg the accusation matters), the Court should go on to consider the impact that extradition in one set of matters will have on the analysis for the other set of matters, and proportionality should be looked at in the round. If extradition is the proper outcome for the conviction matters, this may impact on the way in which the accusation matters should be analysed as the requested person’s private life will be disturbed in any event as a result of that extradition. This may affect the overall question of proportionality.
33. In the instant case, having found that the Appellant was a fugitive with respect to the conviction matters, but not a fugitive with respect to the accusation matters, the District Judge should have gone on to carry out the Article 8 analysis for the different matters separately in the first instance, and then the District Judge should have looked at matters in the round to ensure that the interaction between the two different matters was properly taken into account. This was, in my judgment, the appropriate approach for the District Judge to have adopted because the finding that the Appellant was a fugitive with respect to the conviction matters meant that “very strong counter-balancing factors” were required before extradition could be disproportionate (applying *Celinski* at [39]), but the same approach was not required for the accusation matters. Furthermore, given that the Appellant was a fugitive with respect to the conviction matters, the impact of delay was likely to carry less weight than ought to have been applied to the accusation matters where the Appellant could not have been regarded as having any responsibility for the delay.
34. By not adopting this approach, this led the District Judge into error as she did not place appropriate weight in her consideration of the accusation matters on the fact that the Appellant was not a fugitive and therefore strong or very strong counter-balancing factors were not required. At paragraph 46(vii) of her judgment, the matters were mixed up: the District Judge set out the various factors militating against extradition and found that they did not amount to “strong counterbalancing factors which outweigh the public interest in favour of extradition”. That was not the proper test to apply to the accusation matters, where the Appellant was not found to be a fugitive. Furthermore, whilst the District Judge mentioned the delay and stated that “limited explanation” had been provided for it, she did not go on to differentiate between the impact of the delay and the “limited explanation” as applied to the conviction and accusation matters respectively.
35. Given this error, it is necessary for this Court to carry out its own evaluation of the various factors applying the approach that I have set out at paragraph 31 above. In doing so, I will take into account the new evidence given that the circumstances affecting the Appellant are markedly different now than they were at the time that the extradition order was made. This will enable the Court to comply with its obligations under section 6 of the Human Rights Act 1998, ensuring that the Article 8 balancing exercise is carried out on the basis of the most up to date evidence. I therefore allow the application to adduce fresh evidence.

36. The new evidence is contained in two witness statements. There is a witness statement from the Appellant dated 28 November 2024. He states as follows:

“1. My family life and financial situation have changed a lot since last extradition hearing. I feel like my entire life has collapsed due to this case.

2. My relationship with my partner Jolanta Boryczko broken down and in April, she left me after 9 years living together. We stopped taking and start living separate lives due to the stress and my depression caused by the extradition proceedings. Since our separation my life started to fall apart.

3. Additionally, I gave up on working as a self – employed builder. I was not able to undertake more construction work due to depression that started to affect me already after the extradition proceedings started.

4. I started to drink alcohol again. I was appointed a new key worker who checks on me on regular basis. His name is Joe. He is very kind and supportive person.

5. Joe helped me to resolve situation with my debt payments and provide me with a support on the daily basis.

6. There were days when I drank excessively. Then I stopped for a while and then again.

7. However, I recently decided to stop drinking and got myself a better job. I needed money to pay rent for my apartment and to care for my two dogs. I have two beloved Cane Corso dogs (Rosi 4 years and Vera 5 years old). They are my only close friends, more like a family to me especially when I am alone now. Both dogs are well trained, but they only know one owner. Should I be extradited and sent to prison they would have to be put down as it is very difficult to find them a new home. I feel I would not be able to forgive myself should I lose them that tragic way.

8. Currently, I work at Islington London Borough Council. I started this new work on 18th October 2024 via an employment agency named Cue Personnel Agency from London. I work there as a service man (mostly cleaning and gardening) 5 days a week between 0600-1300, for 34 hours a week and earn around 15 GBP per hour. This salary is barely enough to cover rental costs of my apartment and living costs. Nevertheless, it is a good start and future perspective in the council sector. I plan to sign into special course and learn to be a machine operator to be able to do more sophisticated services for the council.

9. My depression worsens since my partner left me. I constantly think about a suicide. I am not on any medication, and I do not

want to visit GP as I do not have any good past experience with doctors. My beloved dogs are the only reason I keep going.

10. When Jolanta left me, I was really in a very bad shape and drink a lot of alcohol. I bought tablets from the black market in around October 2024. I also injected a lot of air into my veins. I felt dizzy and heart tremors. I felt happy. I then had a lot of alcohol with the tablets. I also bought some heroine. I asked for a dose for a horse. I ate all of it. I then woke up and I started to drink a lot of beer. I would sit there and drink. My friend was trying to call me, but I wasn't answering. He came to check on me. He saw me drinking beer. I told him what had happened. He took me to a private doctor to stop drinking. It didn't help. Then my friend offered me a job. After the first payment I bought some tablets to help me stop drinking. It helped but just for a while.

11. I stopped drinking around 8-9 weeks ago when I got a job offered at the city council. I want to take it seriously now and understand that I can't be under the influence. I feel a bit better but still have suicidal thoughts. I have panic attacks, and I am afraid of people. My two dogs Rosi and Vera are my best friends now."

37. There is also a witness statement from Joseph Jackson, a Case Worker from the Single Homeless Project, Tenancy Sustainment Team, who has known the Appellant since September 2024, albeit the project had been supporting the Appellant for several years. Mr Jackson has stated that:

"Martin suffered a setback earlier this year, sometime in July 2024, when his partner of 10 years unexpectedly left him. This caused Martin a lot of anguish and consequently he started drinking heavily again, after several years of abstinence. This also led to Martin losing his job and amounting significant debt with his landlord, as a result of not being able to pay his rent.

Having supported Martin through this difficult time, I can report that he has now managed to obtain work again and is no longer drinking heavily. This is testament of the strength and resilience of his character. Martin also has an agreed rent repayment plan in place with his landlord to avoid any eviction proceedings, which he is on top of."

38. I will take into account the new evidence in the knowledge that, unlike at the Magistrates Court, there has been no opportunity for the Respondent to test it in cross-examination. Furthermore, where the findings of District Judge Minhas are not impacted by the new evidence, I will rely on those in accordance with *Love v Government of the United States of America* [2018] 1 WLR 2889 at [25]-[26].
39. I will look first at the conviction matters. In this regard, I note that the Lord Chief Justice in *Celinski* stated at [39] that

“The important public interests in upholding extradition arrangements, and in preventing the UK being a safe haven for a fugitive ... would require very strong counter-balancing factors before extradition could be disproportionate.”

40. The factors in favour of granting extradition are:
- i) There is a strong and continuing important public interest in the United Kingdom abiding by its international extradition obligations. There is a strong public interest in offenders being brought to justice.
 - ii) The decisions and processes of the judicial authority should be afforded mutual confidence and respect.
 - iii) The Appellant is a repeat offender, convicted of offences of driving with excess alcohol and driving whilst disqualified.
 - iv) The Appellant is required to serve the balance of the sentences imposed of 1 year, 5 months and 10 days. This is not an insignificant period.
 - v) The Appellant is a fugitive.
 - vi) The Appellant is not of good character in this jurisdiction, he is currently subject to a suspended sentence of imprisonment.
 - vii) The Appellant is of Polish origin and has an adult son in Poland.
41. The factors against are that:
- i) The Appellant has lived in the United Kingdom on/off since 2000.
 - ii) The Appellant is in work.
 - iii) The Appellant has emotional issues with thoughts of self-harm.
 - iv) The Appellant has recently been drinking heavily, although the situation has stabilised. There is a real risk that he will relapse again if extradited.
 - v) There was delay in issuing the Arrest Warrants since 2010/11 until 2022 (in respect of which, the District Judge found that the Polish authorities were not culpable).
 - vi) The accommodation that the Appellant has in the social housing sector.
42. In my judgment, the counter-balancing factors are not “strong”, let alone “very strong”. The Appellant’s relationship with his former partner had previously been a powerful factor pointing against extradition, but this is no longer a relevant factor. Whereas previously, there was evidence that the Appellant was supporting his adult son who is living in Poland, this does not appear to be the case anymore. The Appellant does not say in his latest witness statement that he is continuing to provide financial support to his adult son, and it seems to me most unlikely that he is doing so. The Appellant says

that his income from his new job with the council covers his rent and living costs. This is no longer a factor, therefore, militating against extradition.

43. Whereas previously (and before District Judge Minhas), a factor against extradition was that the Appellant had addressed his alcohol misuse, this is no longer entirely correct. The evidence from the Appellant and Mr Jackson is that the Appellant has relapsed and there was a period when he drank excessively. The situation is now more stable, but there is clearly a risk (which was accepted by Ms Stevenson on behalf of the Respondent in oral argument) that the Appellant will relapse if he was to be returned to Poland. Nevertheless, I have not been provided with any evidence to suggest that alcohol rehabilitation and treatment services are not available in Poland, and Ms Grudzinska has not contended that such services do not exist. Whilst it might be suggested that there is no positive evidence that these services do exist, the absence of evidence cannot be levelled at the Respondent. The Respondent was only provided with the Appellant's recent evidence a matter of days before the oral hearing of this appeal.
44. I acknowledge that the Appellant has lived in the United Kingdom for some time (on and off since 2000) and has recently found work. The Appellant is also accommodated in social housing. The Appellant also has a strong relationship with his dogs. These are factors against extradition. Nevertheless, I consider that the Appellant will be able to return to the United Kingdom once he has served his sentence of imprisonment in Poland, as he has settled status in this country. I acknowledge that the Appellant's relationship with the project team will need to be rebuilt if he was to return to the United Kingdom, and if he needed their support on his return. Nevertheless, based on the long history of a good relationship between the Appellant and the project team, it is realistic to expect that they will provide him similar support if required and will be able to assist him in securing social housing if that is required. With respect to the relationship with his dogs, this will be impacted but does not weigh heavily in the balance.
45. On the other side of the balance, I consider that great importance is to be ascribed to the United Kingdom being seen to uphold its international extradition obligations and the decisions of the Respondent should be afforded proper mutual confidence and respect. It is important that offenders are brought to justice and that the United Kingdom is not considered a safe haven for fugitives. All of these factors weigh heavily in favour of extradition. Furthermore, the Appellant's offending was serious. He drove a motor vehicle whilst subject to a suspended sentence of imprisonment and whilst disqualified from driving. He has 1 year, 5 months and 10 days to serve. This is not a short or insubstantial period and these factors firmly in favour of extradition. In my judgment, these factors clearly outweigh the hardship that will be suffered by the Appellant.
46. With respect to the accusation matters, the factors in favour and against extradition are the same as for the conviction matters, save that the Appellant is not a fugitive, and so it is necessary to take into account in a more significant way the delay. Whilst the Respondent may not be culpable with respect to the delay, the delay with respect to the accusation warrant is not properly explained.
47. Nevertheless, the impact of the delay is lessened by the fact that the Appellant is no longer in a relationship with his former partner, and so the impact of extradition on his private life would be less severe. In my judgment, the impact on the Appellant's private life (living in the United Kingdom on and off since 2000, the recent employment with the local authority, the Appellant's emotional issues with thoughts of self-harm, the risk

of relapse in his drinking if the Appellant was to be extradited, the relationship with his dogs, the loss of his social housing) are just outweighed by the seriousness of the offences for which he has been charged and the respect that needs to be afforded to the requesting state in wishing to bring the Appellant to justice.

48. Making and/or using a forged driving licence is a serious matter. The further act of driving under the influence of alcohol, and when under a ban against driving, makes the further allegations in the accusation warrant serious. Furthermore, as stated above, the Appellant could return to the United Kingdom after he has served his sentence as he has settled status and, as set out above, it is realistic to expect that the project team, with whom the Appellant has built a good relationship over the years, will provide him similar support if that is required.
49. With respect to the section 21A test, I have no reason to disagree with the approach that was taken by District Judge Minhas: see paragraph 16 above.
50. Looking at the conviction and accusation matters separately, therefore, I consider that extradition is warranted for all aspects of the warrant. Taking the matters together, and looking at proportionality in the round, the same applies. As the Appellant will be extradited on the conviction matters, he will necessarily be away from the United Kingdom for a not insubstantial period as he serves his sentence of imprisonment in Poland. This will affect some of the private life factors that weighed against the grant of extradition for the accusation matters, weakening the case against extradition: the Appellant will be away from his life in the United Kingdom and his dogs in any event; and he will lose his job and housing in any event.

Conclusion

51. Accordingly, although I have carried out the balancing exercise in accordance with the approach set out at paragraph 31 above, and on the basis of the fresh evidence, I reach the same conclusion as the District Judge. This appeal is therefore dismissed.