



Neutral Citation Number: [2020] EWHC 2929 (Admin)

Case No: CO/104/2020

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 29<sup>th</sup> October 2020

**Before :**

**MR JUSTICE FORDHAM**

**Between :**

**CALIN MARIAN MIHU**  
**- and -**  
**ROMANIAN JUDICIAL AUTHORITY**

**Appellant**

**Respondent**

**The Appellant** appeared in person

The Respondent did not appear and was not represented

Hearing date: 29<sup>th</sup> October 2020

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.

.....  
**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 :**

1. This is my judgment on an application for permission to appeal. I am giving it verbally, in short sentences, so that it can be simultaneously translated. I have to decide whether to give permission to appeal in this case.
2. This has been a hearing by BT conference call. The Court received an email in which the Appellant confirmed: that the hearing could proceed remotely though he would have preferred a hearing in person if possible. By having a remote hearing, we avoided any risk to any person from travelling to a Court or being in a Court. I was able to confirm that the Appellant could clearly be understood by the interpreter; and she could clearly understand him. I was able to confirm through the interpreter that the Appellant could clearly understand me; and that he was satisfied that, through the interpreter, I could understand him. I told him that I would listen to him and speak to him in exactly the same way as if we were physically in the same Courtroom together. That is what I have done. I am satisfied that a remote hearing was necessary and appropriate and proportionate. It is important that court cases are dealt with publicly. This case and its starting time were published in the court's cause list. Any person could send an email and then observe this hearing.
3. The Appellant is wanted for extradition to Romania. That is in conjunction with a conviction EAW dated 24 June 2019. That EAW relates to a sentence of one year and 10 months. The sentence relates to offences between 2013 and 2016 in Romania. Extradition was ordered by the District Judge on 8 January 2020. The District Judge had to decide whether extradition would be a breach of the Appellant's Article 8 ECHR rights. That is also the question which I have had to consider. The Appellant told me today that he would like me to take into account the Perfected Grounds of Appeal written for him by his barrister on 27 January 2020. He also asked me to take into account a number of points that he made today. I have taken all of these matters into account.
4. What the barrister said in the Perfected Grounds of Appeal included the following points in particular. The Appellant has been in the United Kingdom since November 2017. He has no criminal convictions here in the UK. He has been working during his time here in the UK. He has a girlfriend here. Because he is able to work, he is able to support his mother who lives in Romania, by sending money to her. She relies on him for that. The District Judge specifically found that the Appellant is not a fugitive. That is because the Appellant went back to Romania to attend the various hearings in the legal proceedings. The offences in this case are relatively old. They are also relatively minor.
5. The Appellant told me today the following. He wants to remain here in the UK to continue with his activities here. In particular, he wants to be able to continue with his daily work. He works as a carer in different places, particularly working with people learning difficulties and/or mental health issues (the interpreter translated it as 'mental disabilities'). He is working as a carer at a very difficult time during the Covid-19 pandemic. He has seen people dying in the pandemic. He would like to be able to continue in that important work and making that important contribution. He recognises that he has a sentence which he faces to serve in Romania. He says he would like to serve it here in England. He says that he has only 7 months of a sentence to serve in Romania. He told me that he made a payment of a large fine early

this year. He said that the fine he paid was the equivalent of £2,800. He emphasised the point I have made already that he did not abscond from Romania. He emphasised that he wanted the positive points in his favour to be considered in this case. He explained to me the difference, as he sees it, in different criminal conduct. He said to me that he did not understand why he had to be ‘extradited as if he were a criminal or a thief’. He said justice should distinguish between different crimes. He said he regrets the situation that has been reached in this case and confirmed that he had nothing else to add.

6. In my judgment there is no realistic prospect that this case could succeed on a substantive appeal. I have to assess on the basis of everything I have read and heard whether the appeal is reasonably arguable. In my assessment this article 8 appeal is not reasonably arguable.
7. I accept that the law should distinguish between different sorts of crimes and their seriousness. Article 8 allows for such a distinction to be made. One of the factors that is relevant is the relative seriousness of the offending. The District Judge described the offences as ‘moderately serious’ and as ‘reasonably serious’. That description is accurate in my judgment, beyond reasonable argument. The Appellant committed the offence of driving a vehicle without a driving licence and using the licence plate of another vehicle on 22 July 2013. He committed that offence at a time when his driving licence had been cancelled. The District Judge said that was similar to ‘driving while disqualified’. The Appellant committed exactly the same offence on 6 September 2013. On 28 April 2014 he committed the offence of driving without a driving licence and without a licence plate. These were repeat offences. The Romanian courts imposed a suspended sentence of 18 months custody. On 25 May 2016 the Appellant committed the offence of driving without a driving licence. That was a further repeat offence. It was also a breach of the conditions of the suspended sentence. As a result of the 2016 offence, and the activation of the suspended sentence, the Romanian courts imposed a custodial sentence of 1 year and 10 months. The Appellant appeared in court to try to obtain a lesser sentence; he also brought an appeal against the sentence. The appeal was refused in June 2019.
8. I am not able to prefer the things that the Appellant has told me today about a 7 month sentence and the payment of a substantial fine, when I have the official documents from the Respondent placed before the Court. This ruling will be publicly available. The Appellant will be able to show the authorities what he told me. He will be able to show them any documents that he holds. I am satisfied that I have to proceed on the basis of the documents before me and so would the Court dealing with any appeal.
9. However, in order to be as fair as possible to the Appellant – remembering that he is representing himself, and remembering that this is the permission to appeal stage, and that a court could take into account fresh evidence if it thought there were good reasons to do so – I have considered what the position would be if the sentence to be served in Romania were 7 months custody. In my judgment, the appeal would still not be reasonably arguable.
10. There is a strong public interest in extradition. There is a strong public interest in giving mutual respect for the decisions of courts in another country. That includes the decisions of the Romanian courts in imposing sentences, in activating a suspended sentence, and in dismissing an appeal against sentence.

11. Although the Appellant has been found not to be a fugitive, he did nevertheless come back to the United Kingdom in September 2019 knowing that he had been unsuccessful on his appeal against sentence, and knowing that he was required by the Romanian authorities to serve that sentence in Romania. Although he is not a fugitive, there is nevertheless a strong public interest in the UK not being a 'safe haven' for someone who leaves a country to avoid a sentence that he disagrees with.
12. There has been no relevant delay in this case. Although the Appellant had been here for 2 years at the time of his hearing before the District Judge, and although he has now been here for 3 years, extradition was pursued promptly on 24 June 2019 and he was arrested and then released on bail in mid-August 2019. During the period 2017 to 2019 he was unsuccessfully resisting the proceedings in Romania. There is no delay which materially lessens the weight to be given to the public interest in favour of extradition; nor which materially strengthens the position so far as family life or private life is concerned.
13. It is undoubtedly to the Appellant's credit that he has no convictions in the UK. I respect the fact that he has worked hard under difficult circumstances here. I respect the fact that he is able to send money to his mother in Romania. The contribution that care workers make in the pandemic cannot be underestimated. There will be hardship for him if he is extradited. There will also be hardship if his mother loses the financial support she gets from him. The District Judge took that hardship into account in his decision.
14. I have taken the positive matters into account, as the Appellant asked me to do. The positive matters in this case when taken together are not capable, even reasonably arguably, of outweighing the public interest considerations in favour of extradition. I am now the third judge in this case who has reached that clear conclusion. The District Judge described this as a plain and straightforward case. Johnson J said that the outcome was obviously correct. When I apply the legal framework relevant to Article 8 and extradition, and notwithstanding everything that has been said, I agree with those conclusions. This appeal is not reasonably arguable and I refuse permission to appeal.

29.10.20