IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
[2021] EWHC 2160 (Admin)

No. CO/2318/2021

Royal Courts of Justice

Thursday, 15 July 2021

Before:

MR JUSTICE HOLMAN

B E T W E E N :

MICHAL PRZECZEK — Appellant

- and -

DISTRICT COURT IN OSTRAVA
(CZECH REPUBLIC) — Respondent

MR A. VAUGHAN (instructed by Hodge Jones & Allen) appeared on behalf of the appellant.

MISS L. HERBERT (instructed by the Crown Prosecution Service) appeared on behalf of the respondent.

J U D G M E N T
(A s a p p r o v e d b y t h e j u d g e)

MR JUSTICE HOLMAN:

1 This is an appeal to the High Court in relation to bail in extradition proceedings. The essential factual background is that the appellant was first arrested on 19 May 2021. Bail was refused on 26 May 2021 and he has, I think, been continuously in custody since his arrest. The final hearing of the extradition application is listed for 16 August 2021, which is around a month from today.

2 On an appeal of this kind I must, of course, exercise my own discretion afresh and I am not in any way circumscribed by the decisions or reasoning of district judges who have refused bail.

3 The underlying forensic situation is a little complicated, and perhaps even confused. At the risk of oversimplification, there are two European Arrest Warrants. The first (EAW 1) is a conviction warrant that itself relates to two completely separate convictions. One is a conviction for operating gaming machines unlawfully without a licence in a period from 2008 to 2011. The other is an offence of driving with excess alcohol, which was committed in February 2012. He was convicted in relation to the excess alcohol offence in June 2012, at which time an aggregate sentence in relation to both the unlicensed gaming machines and the excess alcohol offences was imposed of two and a half years' imprisonment. That prison sentence was at the time suspended and, as I understand it, has not yet been activated, although it is liable to be activated because of the subsequent disappearance of the appellant who did not remain in contact with his probation officer.

4 The second warrant (EAW 2) is now an accusation warrant. The procedural history in relation to this matter is complicated. The underlying offence alleged took place in April

2013. It is alleged that the appellant attacked a victim in a bar with a glass. He is said to have thrown the glass at the victim from a distance of about one and a half metres. The glass broke. Potentially severe damage could have been caused, including, for example, loss of an eye. As it happened, by good fortune, the physical injury to the victim was relatively slight and limited to bruising and a relatively superficial laceration on the bridge of his nose. As a result, what the appellant was, and remains, charged with in relation to that matter was attempting to cause grievous bodily harm.

5 It appears that he was originally convicted of that offence in his absence. There was then an appeal by the prosecution against the sentence, which the prosecution argued was too light. The appeal court seems to have got to grips with the whole case and concluded that the whole trial had been unfair as it took place in the absence of the accused and, as I understand it, that conviction was set aside. The result is, as I have said, that EAW 2 is currently an accusation warrant.

6 However, the fact remains that the appellant was arrested on both EAW 1 and EAW 2. EAW 1 is unquestionably a conviction warrant and, accordingly, there is no presumption of bail.

7 Mr Anthony Vaughan, who appears on behalf of the appellant, submitted earlier today a cogent skeleton argument in which he argued that, subject to proposed tight conditions, any risk of absconding could be managed and that his client ought now to be released on bail. Unfortunately for the appellant, and indeed for Mr Vaughan, he was faced on arrival at court with a skeleton argument by Miss Laura Herbert, on behalf of the respondent. As well as addressing the issues in the case generally, the skeleton argument of Miss Herbert, at paragraph 22, referred – at that stage somewhat anecdotally – to what the police had noted at the time of the arrest of the applicant. However, Miss Herbert had, of course, not herself

simply imagined what she put at paragraph 22. It was based on a police record that was in her documents.

8 After a somewhat lengthy delay this morning, that document has now been made available and printed, and has been read by both myself and Mr Vaughan. It is headed "Remand application". The opening parts of the document are a tick box form in which the officer in the case, and the case officer's supervisor recommend a remand in custody on the grounds that there are substantial grounds for believing that if granted bail this defendant is likely to fail to surrender. The narrative in the document reads as follows:

> "[The appellant] has been sought by Czech authorities for over eight years, there was no footprint of [the appellant] at all within the UK. This male was located using a number of covert police tracks and was known to be one of the most difficult to locate. The male stated upon arrest that he had actively evaded the charges awaiting him for nearly ten years. [The appellant] was using false documents, he was working locally for cash and renting a room from a fellow Czech national."

9 Pausing there, what I have read out so far is essentially an account of past fact. The narrative continues with an observation by the police – which, of course, is no more than their opinion – that:

> "If [the appellant] is granted bail, he will continue to actively evade police action and this will be at a cost to the UK taxpayer as well as taking further police resources to have to locate him again."

10 Obviously the circumstances in which this document has been produced today are thoroughly unsatisfactory. The arresting officer, Georgia Lott, had made a witness

statement as long ago as 19 May 2021, on the day of the arrest, when she describes the circumstances of the arrest and takes the narrative up to the point where "transportation to Westminster Magistrates' Court was then arranged by Custody Sergeant". There is nothing in that statement at all indicative of what is later stated in the "remand application", which I have quoted above. All this may require further investigation, for the remand application states that "the male stated upon arrest …". The actual arresting officer, Georgia Lott, states that upon arrest "[the appellant] made no reply …". Further, there has, of course, been no opportunity whatsoever for counsel to take any instructions from his client on what is now stated in the remand application form and in paragraph 22 of Miss Herbert's statement. So I fully recognise the unsatisfactory nature of the situation today.

11 Nevertheless, this remand application form is clearly a formal police document. Although it does not bear manuscript signatures, it purports to have been prepared and, probably in some versions, signed by both the officer in the case, who is a police constable, and her supervisor, who is an acting sergeant. It is itself also dated 19 May 2021, so it is very contemporaneous with the arrest itself. Frankly, it would be grossly irresponsible of me today not to pay regard to that document despite its unsatisfactory evidential status.

12 There is a lot that is not known about this appellant. He appears to have few solid connections with this country. He does not appear to be in any relationship with any other person. So far as I am aware, he does not own property here. He is said to be self-employed as a gardener. So any ties that bind him to this country may be relatively loose. No doubt the question whether or not he is a fugitive will be hotly contested and closely examined at the substantive hearing of the extradition application, when he will be present and may give evidence. On the face of it, he is wanted for now several offences, one of them – namely the attempted grievous bodily harm – a very serious one. He potentially faces a relatively long term of imprisonment and, in my view, on all the material available to me today, there have

to be substantial grounds for believing that he may abscond if released on bail, despite the conditions offered.

13 Mr Vaughan raised for consideration whether I should adjourn this appeal for a period of time to enable the prosecution to put their case in a properly evidenced form, with witness statements from any relevant police officers, and to enable instructions to be taken from the appellant. I am not minded to do that. Today is 15 July. The substantive hearing, as I say, will be on 16 August, in a month's time. Frankly, by the time the sort of steps that Mr Vaughan contemplated had been taken, it would be so close to the substantive hearing that it would be highly unlikely that bail would be granted at that late stage by this court. Of course, at the substantive extradition hearing the whole question of bail will be open for reconsideration in the light of whatever decision the district judge makes, and whatever view he forms of the reliability of the requested person.

14 For those reasons, this appeal today necessarily is dismissed.

CERTIFICATE

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5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
CACD.ACO@opus2.digital