



Neutral Citation Number: [2023] EWHC 2901 (Admin)

Case No: CO/755/2023  
AC-2023-LON-000879

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Thursday 16<sup>th</sup> November 2023

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

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**Between :**  
**MARCIN CWIKLINSKI** **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: 16.11.23

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:**

1. The Appellant is aged 24 and is wanted for extradition to Poland. That is in conjunction with a conviction Extradition Arrest Warrant. It was issued on 31 May 2022 and was certified on 9 October 2022. He was arrested on it on 6 November 2022 and has been on bail since 21 November 2022. His extradition was ordered by District Judge Sternberg (“the Judge”) on 24 February 2023. That was after an oral hearing on 2 February 2023 at which the Appellant was represented by Counsel and gave oral evidence. He has been in the United Kingdom since the end of 2018. He moved in with his partner in the second half of 2022. They live with her 4-year-old son with whom he has established a bond. The Judge found, and Mr Hepburne Scott does not contest, that the Appellant would be able to return to the UK after serving the 10 month sentence in Poland, were he extradited to do so.
2. That sentence was originally suspended for two years, on condition of probation supervision and the payment of redress. The four offences which had led to that sentence were criminal damage offences in April and May 2017 by damaging CCTV monitors; and a threat and assault in May 2017 of a teacher. All of that had happened in a Polish young offenders institution where the Appellant was detained. He was aged 18 at the time of that offences. He was then convicted and sentenced in May 2018 and the two-year suspended suspension period began. He was subsequently released from detention (which appears to have been remand detention) relating to other matters in October 2018, by now aged 19. It was at that stage that he came here to the UK. He did not comply with the probation supervision condition nor the payment of redress condition. The suspended sentence was duly activated in February 2020. He also came here breaching a requirement to notify any change of address. The Judge found as a fact that the Appellant had been informed of that obligation on two separate occasions in 2017. The Judge unassailably found that he left Poland and came to the UK as a fugitive.
3. The sole issue is Article 8 ECHR. The relevant rights are those of the Appellant, his partner and her son. Mr Hepburne Scott emphasises the need to look overall and in the round. He says that the outcome in this case is, at least reasonably arguably, wrong. He emphasises: that the Appellant was only 18 at the time of the offending; that it was against a background of being a troubled teenager; that there is now the long-term relationship with the partner and her child; that both the partner and the child have particular needs and vulnerabilities; that each would face severe hardship were the Appellant extradited; that the offences were relatively minor hence they attracted the suspended sentence originally; that the Appellant has completely turned his life around with no convictions in the UK since coming here; and that there is a significant passage of time and delay, particularly when viewed from the offending in 2017 (6 years ago), but also in the Polish authorities’ pursuit of the Appellant, and when viewed in the context of the life of a 24 year old.
4. Permission to appeal was refused on the papers by Kerr J on 27 September 2023. He could see no viable Article 8 appeal to this Court. Having looked at the matter afresh, I have reached the same conclusion.
5. It is true that there have been 6 years that have passed since the offending in 2017. But during that time the Appellant was convicted, sentenced to the suspended sentence then released from custody in October 2018. It was in the period of time

after that that he failed to comply with the conditions and the sentence was duly activated in February 2020. By that stage, in 2020, the Appellant had chosen to come to the United Kingdom. He had breached the suspended sentence conditions, and he breached the further condition to provide an address. The subsequent passage of time, as the Judge found, is directly linked to that fugitivity. The relationship and family life, established at the end of 2022, also has been seen against that backcloth. It is right to recognise the Appellant's troubled background and his age at the time of the index offences. It is right to recognise the serious and significant impacts of extradition on him, and on the blameless partner and the child, and their particular needs and vulnerabilities. It is right to recognise that on a scale of seriousness the offences can be said to be at the lesser end of that scale. It is also right to recognise that the Appellant has turned his life around and has no convictions in the last 6 years. Mr Hepburne Scott submitted today that the relationship with the partner and child have been built "on a crime-free basis". That is true in the sense of no UK convictions from the end of 2018 when the Appellant came to the UK. But there is a very real sense in which the relationship has also been built on a situation of fugitivity from responsibility arising from the past crimes in 2017. Notwithstanding all of these important features and the other matters that can weigh in the balance against extradition, there are powerful public interests in favour of extraditing. They include the point about safe havens and fugitivity, as is familiar in extradition cases. Certainly viewed in terms of the Polish authorities, and their pursuit of the Appellant, this in a case where the passage of time is not especially lengthy and is readily explicable. Added to this is the Judge's express finding that the Appellant will be able to return to this country, to his partner and her child, after serving the 10 month sentence in Poland.

6. On all of these, and all the other, relevant features of the case, it is possible to trace every fact and factor within the Judge's careful evaluative judgment. These matters were all considered and properly weighed in the balance. Nothing was omitted or mischaracterised or misstated. There is no realistic prospect that this Court at a substantive hearing, stepping back, would conclude that something has gone wrong in the way that these features have been balanced so that the outcome in the case was wrong. In those circumstances, and for those reasons, permission to appeal is refused.

16.11.23