



Neutral Citation Number: [2023] EWHC 2902 (Admin)

Case No: CO/578/2023
AC-2023-LON-000723

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Thursday 16th November 2023

Before:
FORDHAM J

Between:
PATRIK BARTOS **Appellant**
- and -
DISTRICT COURT IN KOSICE (SLOVAKIA) **Respondent**

George Hepburne Scott (instructed by JFH Law) for the **Appellant**
The **Respondent** did not appear and was not represented

Hearing date: 16.11.23

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 was born in the Czech Republic in 1992 and came to the UK aged 4 in 1997. He was granted indefinite leave to remain in September 2020. He has been in a relationship with his partner since around 2015, and has been a father figure to her now 10 year old daughter since then. He has a record of work in the UK and no criminal convictions here. The couple have a 15 month old daughter born in August 2022 who spent 11 weeks in hospital and underwent open heart surgery twice during that time. There is information before the Court about the younger daughter's health, about the position of the partner and the other daughter, and about the Appellant's learning difficulties and mental health including descriptions of self-harm. It is important to say that I have read and considered all of those materials and the Convention rights of all of those who are affected by this extradition case.
2. The Appellant was – as he has described – previously extradited to Estonia from the UK, where he was tried and convicted and faced a two-year custodial sentence for offences of fraud and money laundering. Mr Hepburne Scott has today helped me to fill in some further detail in the understanding of what happened. Those extradition proceedings were opposed. They led to a case in the High Court in which permission to appeal was refused on the papers and at an oral hearing. It was an accusation Extradition Arrest Warrant. And it was around 2016/17 that the Appellant was extradited. He was then tried and convicted in Estonia and served part of a custodial sentence there. He says he was in custody there for 2½ months of the 2 years in 2017 prior to his release and return to the UK. An international convictions (ACRO) document describes the Estonian conviction as having been in September 2018. I am satisfied that nothing turns on any need for further enquiry as to the precise sequence of events, so far as the Estonian extradition and offending are concerned. I also record that in the ACRO document is an offence of theft in August 2015 in the Czech Republic.
3. The Appellant is now wanted for extradition to Slovakia. That is in conjunction with another accusation Extradition Arrest Warrant. It was issued on 4 February 2022 and certified on 9 November 2022, the date on which the Appellant was arrested on it after an encounter with the authorities here. The allegations in this Slovakian Extradition Arrest Warrant are denied by the Appellant. They involve a series of alleged money-laundering offences between March 2017 and August 2017, in the course of which it is said that he concealed some €381,000 in bank accounts which he controlled, and he attempted to conceal a further €1.15m, knowing that those monies constituted the proceeds of criminal activity. The maximum sentence in Slovakia is 20 years.
4. District Judge Zani (“the Judge”) ordered the Appellant's extradition to Slovakia on 7 February 2023. That was after an oral hearing on 13 January 2023 at which the Appellant was legally represented and at which he and his partner both gave oral evidence. The Judge rightly said of the alleged index offending that it was very serious and that in the event of a conviction in the UK for like criminal conduct a prison sentence of some length may well be imposed. The Judge found in the Appellant's favour that it had not been proved that he is a fugitive.
5. The issue on which Mr Hepburne Scott renews the application for permission to appeal is Article 8 ECHR. The relevant Article 8 rights are those of the Appellant but

importantly also as I have indicated those of the partner, the 10 year old daughter and the 15-month-old daughter. As the Judge rightly said in the judgment: each case has to be considered on a fact specific basis and the courts are required carefully to weigh the requested person's Article 8 rights and those of his partner and any dependent children against the important public interest in the UK abiding by its international extradition obligation.

6. The Appellant needs an extension of time, his solicitor having accepted responsibility for a failure to serve the Renewal Notice on the NCA as required. That application is unopposed and in the particular circumstances of the present case I grant it, focusing on the legal merits. I did not need to hear Mr Hepburne Scott on this aspect of the case.
7. The basis of the Article 8 appeal is that the Judge should have weighed relevant factors significantly differently, such that the outcome was wrong and should be overturned. Mr Hepburne Scott also took me to passages in the judgment which he criticises. Particular emphasis is understandably placed on the impacts of extradition for all those affected. Emphasis is also placed on the 3½ year passage of time between the end of the alleged offending in August 2017 and the March 2021 domestic warrant issued by the Slovakian authorities. What is said is this. That is 3½ years unexplained delay on the part of those authorities. It cannot be attributed to the Appellant in circumstances where he has not been found to have been a fugitive. Its materiality as a passage of time can be tested, I think, in this way: by supposing a prompt pursuit succeeding in extraditing the Appellant to Slovakia, in the same way that he had successfully been extradited to Estonia. Although that would still have had consequences for the partner and stepdaughter, it would not have been in a set of circumstances as they are now: with the very young daughter and her best interests, welfare and health. Particular emphasis is also placed on the Appellant's learning difficulties, his mental health and the evidence about self-harm. He describes having spent 8 days in a mental health unit in the UK after returning from the extradition to Estonia. The Court is being asked to extend the representation order to allow a psychologist's report to provide full information about the Appellant and assist on these aspects.
8. Permission to appeal was refused on the papers on 4 September 2023 by Heather Williams J. She also refused permission for the psychiatrist's report extension. She could not see a viable Article 8 appeal with a realistic prospect of success. She was also unpersuaded that a report from a psychologist would materially alter the position. I have arrived at the same conclusions, having considered the case afresh and with the considerable benefit of Mr Hepburne Scott's written and oral submissions.
9. The Judge conducted a careful and clear Article 8 balance sheet exercise. Having described – as I have mentioned – the need for the careful weighing of all of the Article 8 rights, the Judge focused specifically on the impact and implications, including for the very young child, the other daughter and the partner. The Judge described the position of the partner, being on universal credit incorporating housing benefit and child benefit with a rental agreement in the partner's name. The Judge recorded his appreciation that there would be hardship caused to the Appellant, the partner and the young child as well as her older sister. The Judge recorded that he had particularly borne in mind that the very young daughter has heart and related health issues requiring careful and regular monitoring by the hospital. The Judge also

described the evidence of the partner and his assessment of that evidence. He described her as a very caring and diligent mother who would continue to act in the best interests of the daughters; as a resilient and determined woman who would wish to remain in the UK with the children, in what appeared to be secure accommodation and with settled status; with the receipt of UK state benefits which would continue. The Judge expressly recognised that the impact of extradition was that it would “clearly” be “difficult” for the partner. The Judge also specifically described taking into account in the Article 8 balancing act context, the time that had passed from when the alleged offending conduct was said to have taken place.

10. What the Judge explained was that the factors, all of which he identified and described, were not capable (ie. individually or cumulatively) of tipping the scales sufficiently so as to render extradition a disproportionate interference with Article 8 rights. I agree. Like Heather Williams J, I can see no realistic prospect of that outcome being overturned on appeal, by reference to any and all of the points emphasised on behalf of the Appellant and the affected family members. Nor do I see a justification for making arrangements for a psychologist’s report. The Court is well able to see the points and concerns that are raised relating to learning difficulties, mental health and self-harm. This is a case in which the public interest factors in favour of extradition, notwithstanding that the Appellant is not a fugitive, do clearly and decisively outweigh all features capable in combination of weighing against extradition. In the circumstances and for the reasons which I have described, I will grant the extension of time, but I will refuse the extension of the representation order and the application for permission to appeal.

16.11.23