



Neutral Citation Number: [2023] EWHC 446 (Admin)

Case No: CO/2518/2022

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

Royal Courts of Justice
Strand, London, WC2A 2LL

1st March 2023

Before:

MR JUSTICE FORDHAM

Between:

SLAWOMIR SEKULA
- and -
REGIONAL COURT IN BYDGOSZCZ

Appellant

Respondent

The **Appellant** in person
The **Respondent** did not appear and was not represented

Hearing date: 1.3.23

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.

.....
THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

MR JUSTICE FORDHAM:

Introduction

1. This is an extradition appeal in which Linden J refused permission to appeal on the papers on 11 January 2023. The Appellant now acts in person, with an interpreter. He has addressed me helpfully and clearly this morning. And he has made a number of points to me to add to those which have been made in writing. His case in writing was found in two documents. First, there are Perfected Grounds of Appeal dated 21 July 2022 written by his previous lawyers. Secondly, there is an Email Request for a renewal hearing dated 17 January 2023 written by him. By an Order of Julian Knowles J on 2 February 2023, he has this Court's permission to rely on that Email Request as his Grounds of Renewal. I have considered both of those documents. And of course I have also considered what has been said to me at the hearing.
2. The Appellant is aged 49. He is wanted for extradition to Poland. That is in conjunction with a conviction Extradition Arrest Warrant ("ExAW"). It was issued on 23 September 2021 and certified on 6 January 2022. He was arrested on it on 20 February 2022. He has been on bail throughout his extradition proceedings. The ExAW relates to a two-year prison sentence. He has submitted to me that two years was a disproportionate sentence for the offence given the amount in question. It was imposed on him in Poland in May 2015 as a suspended sentence. That was after a conviction of an offence of fraud. The fraud offence related to deferred and unpaid invoices. It involved the obtaining of goods with an equivalent value of £2,616. That is a sum which the Appellant has told me that he would like now to pay by way of compensation, as was ordered by the Court in Poland, and he has told me he would be able to pay that amount. The offence had been committed between November 2010 and January 2011. The Appellant has made the point this morning that that is more than 10 years ago.
3. Extradition was ordered by District Judge Clarke ("the Judge") on 7 July 2022. That was after an oral hearing on 26 May 2022. The Appellant gave oral evidence and was cross-examined. The judgment records that he told the Judge that he had remained in touch with probation and attended when required and that they had his address. These are also points that he has emphasised to me at this hearing. There were witness statements before the Judge from his partner and her son. They were not needed for cross-examination. And again the Appellant has emphasised that this hearing that those statements were made and reminded me of their contents.
4. As the Judge explained, the suspended sentence of two years custody had been activated in the light of two events. The first was a further conviction of an offence of evading alimony. The second was the non-fulfilment of a condition of the suspended sentence. It required the Appellant to pay compensation in respect of the defrauded victim. The Appellant said to me this morning that he tried to make that payment but had difficulties. But there was and is no basis for our Courts to go behind the activation of the sentence. The Judge found in the Appellant's favour that he was not a fugitive. But the Judge said it had been foolish for him to leave Poland, at the start of 2020, when he knew that the sentence had been activated.

Passage of time

5. The Perfected Grounds of Appeal emphasised the passage of time since the offending (2010 and 2011) and since the suspended sentence (May 2015). As I have said, the Appellant has emphasised this morning that the offence was more than 10 years ago. But the problem with that is this. The Appellant knew about the two-year suspended sentence and its five year suspension. He knew about the conditions. And he knew that he had not paid the compensation. He also knew, promptly after September 2019, that the sentence had been activated. He discovered that on his Christmas visit to Poland in December 2019. He then returned to the UK. The ExAW was issued in September 2021. He was arrested in February 2022. The passage of time is accounted for by those circumstances. So, it could not weigh heavily in the Article 8 balance.

Activation

6. The Perfected Grounds of Appeal emphasise that the alimony offence would not have been a criminal offence in the UK. They also emphasise that the Appellant made attempts to pay the compensation. I have explained that second point has again been emphasised to me this morning by the Appellant. But the problem with those points is this. The two-year sentence was activated in light of these breaches. The Judge could not go behind that, and nor can I. The Appellant knew of that activation in December 2019. There are strong public interest considerations which weigh in favour of extradition. And the background is relevant: the Appellant had previous convictions in Poland for offences of dishonesty.

Other Features

7. The Perfected Grounds of Appeal and the Email Request strongly emphasise points about the current position. The Appellant has been in the UK since 2016, except for visits to Poland. He has no convictions here. As he put it to me this morning, he has no problems here in the UK with the police. He has a family life here. He is in a relationship which began in 2020. He has a family life with his partner and is on good terms with her 20 year old son. He has been working hard. There will be serious impacts for the partner and her son if he is extradited. There are financial impacts. There is also a financial impact for his two sons in Poland. And he told me this morning that there will be an impact for his parents as well. He explained that he is in touch with his children in Poland, and with his parents, and that he provides financial support. All of these, and the other features of the case, were taken into account by the Judge. I have considered them too. There was no error of law in the Judge's approach. The balancing exercise which is required was undertaken. I have considered the Judge's reasoning and all of the points put forward by and for the Appellant. I have considered those points individually, but also cumulatively. In my judgment this is a clear case. The features in favour of extradition decisively outweigh those against extradition. There is no realistic prospect that this Article 8 appeal could succeed.

Conclusion

8. I agree with Linden J. Like him, I can see no reasonably arguable ground of appeal. Permission to appeal is therefore refused.