



Neutral Citation Number: [2024] EWHC 428 (Admin)

Case No: AC-2022-LON-00392

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Wednesday, 28th February 2024

Before:
FORDHAM J

Between:
ARNOST BERKI
- and -
CZECH REPUBLIC

Appellant

Respondent

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

Hearing date: 28.2.24
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:

Introduction

1. The Appellant has appeared in person with an interpreter. He is aged 48 and is wanted for extradition to the Czech Republic where he has 25 criminal convictions. In 2014 he was extradited there from the UK, to serve a 14 month sentence for an offence of theft. He came back here in 2019, after being arrested in the Czech Republic for a December 2018 offence of stealing perfumes from a supermarket for which he was sentenced to 7 months custody in September 2019. That offence was itself committed during a two-year suspended sentence of 12 months custody imposed in March 2017 for an offence of attempted theft from a backpack at a museum in March 2017. The 12 month suspended sentence for the attempted theft was activated in September 2020. Extradition was ordered by District Judge Zani (“the Judge”) on 14 April 2022 after an oral hearing at which the Appellant was represented and gave oral evidence.

Article 8

2. The Judge generously gave the Appellant the benefit of the doubt on the issue of fugitivity. The Judge unassailably found that the strong public interest considerations in favour of extradition decisively outweighed the private and family life impacts capable of weighing against it. The Appellant was not sole carer for his children. He had lived apart from them for significant periods of time. The offending is significant. The theft was aggravated by previous convictions, and as a breach of a suspended sentence. Earlier in 2019 before coming to the UK, the Appellant was convicted of an offence in Germany. He also has 2013 and 2014 UK convictions. The Appellant’s 3 sons were living with him and his parents in the UK when he was extradited in 2014. They were now aged 15, 13 and 11. They had been living with his mother here, with the Appellant rejoining them here in 2019. The Appellant had been in a relationship since about 2020. His partner lived separately and had 4 children from a previous relationship. The Article 8 rights of all those affected were carefully considered by the Judge.
3. Permission to appeal was refused on the papers by Dove J in March 2023. The Appellant has been acting in person since then. His notice of renewal is dated 16 March 2023. It said I am representing myself. His written communications to the Court say he is carer for the partner (and a carer’s allowance document of December 2022 was filed). He also sent an email saying he had health problems. In his oral submissions today, the Appellant tells me that he has the file from his former solicitor. He says he wants a new solicitor. He says it is difficult to find a solicitor because he does not speak good English. He emphasises that he is looking after his children, and his mother. He says she and he have medical issues, and so does his partner. He says his teenage children need him. He has asked the Court not to extradite him to the Czech Republic, but to be given another chance and make amends. I am not prepared to adjourn today’s hearing. As I have explained the appellant has been representing himself since March 2023. He knew that there was going to be a hearing. And he knew that his previous lawyers were no longer representing him. He has had plenty of opportunity to instruct new lawyers. The case remains a clear-cut one in Article 8 terms. I have considered the position of the teenage children. But I do not need to require or ensure any further information. I can rely on the Judge’s careful analysis. There is no new documentation. Extradition is clearly proportionate. There is no arguable violation of anybody’s human rights. The appeal has no prospect of success, and I will refuse permission to appeal.

Section 36B

4. Today's attendance by the Appellant has been by video link from a prison. The Court was informed (22.2.24) that the Appellant had been arrested on 19 February 2024 for new domestic offences and for breaching his bail. I understand that there are a number of matters. I was reminded that, if permission to appeal were refused today, I would need to make an order under section 36B(2) of the Extradition Act 2003 that the Appellant cannot be removed until the conclusion of his domestic proceedings. I am required to order – as I do – that the extradition order is not to be carried out until all charges have been (a) disposed of (b) withdrawn (c) the proceedings discontinued or (d) an order made for them to lie on the file.

Appropriate Judge

5. Mr Squibbs submitted that I am not the “appropriate Judge” for the purpose of that Order. But that turns on whether rules have or have not been made under section 36 B(4), which he candidly tells me he had not checked. The email from his instructing solicitor gave the strong impression that rules had been made. In future it would be helpful to have clarification and a draft order ahead of a hearing of this nature. Mr Squibbs has been able now helpfully to confirm that there is a rule, and it is Criminal Procedure Rule 50.23(3)(b). He accepts, on reflection, that I am the appropriate judge and that it is appropriate for me to make the order.

28.2.24