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

No. CO/3760/2021

[2021] EWHC 3143 (Admin)

Royal Courts of Justice

Thursday, 11 November 2021

Before:

THE HONOURABLE MR JUSTICE CHAMBERLAIN

B E T W E E N :

DAMIEN BOGUSZEWSKI

Applicant

- and -

POLISH JUDICIAL AUTHORITY

Respondent

MR G. HEPBURNE SCOTT appeared on behalf of the Applicant.

MR T. TOMCROFT (instructed by the Crown Prosecution Service) appeared on behalf of the Respondent.

JUDGMENT

MR JUSTICE CHAMBERLAIN:

1

Damien Boguszewski is sought pursuant to an European Arrest Warrant issued by the Regional Court at Białystok in Poland on 6 June 2019. The warrant seeks his surrender to serve two outstanding

sentences, which became final on 23 May 2013 and 29 July 2014, in respect of convictions for possession and supply of cannabis and amphetamines. The sentences are five months and 27 days and one year, respectively.

2

The applicant came to the UK in April 2015 and says that he has been settled in this country for many years. He received a caution for shoplifting in 2016 and a conviction for driving without insurance in 2019, which resulted in a fine and the endorsement of his licence.

3

The applicant was arrested at Birmingham Airport, pursuant to the warrant, on 19 September 2019, on his way to Portugal. He had no return ticket. The applicant says that he has made two unsuccessful bail applications at Westminster Magistrates' Court. On 5 October 2021, he offered security of £1,000. Bail was refused by District Judge Godfrey, who noted that this was a conviction case in which the applicant had just shy of 18 months to serve. The judge said that it was not for him to go behind the extradition request relating to the seriousness of the offence. There was no presumption in favour of bail.

4

The applicant had been stopped while trying to leave the UK and was considering staying in Portugal. Although he had provided proof of his employment prior to departure, he was not currently working and had no community ties or family in the UK.

5

A second bail application was made on 25 October 2021. That came before District Judge Snow. He observed that everything that could be said had been said on the applicant's behalf. He was not sure that the sentences would be re-suspended. The applicant did not have a return ticket to the UK when arrested at the airport; he was not a British national; he had links abroad and 18 months left to serve; he was a fugitive and this was a conviction warrant; the proposed conditions could not meet the court's fears.

6

The applicant proposes the following conditions: to live and sleep at his home address in Redditch; to be indoors between 10 p.m. and 4 a.m. daily; to be subject to an electronically-mattered curfew; not to go to or enter any international travel hub; not to apply for any international travel documents; pre-release security of £1,000; and his passport, which was seized upon arrest, to be retained by the police. Finally, daily reporting to a local police station between 4 p.m. and 8 p.m.

7

For the applicant, Mr George Hepburne Scott says that the applicant is suffering from depression and is emotionally vulnerable. He made a serious suicide attempt at HMP Wandsworth on 11 October 2021. He has received support from the medical team there and he has been prescribed antidepressants. I have not seen any medical report or letter or other medical evidence relating to his mental condition or to the suicide attempt.

8

I have considered carefully whether the conditions proposed can properly address the risk that the applicant will fail to surrender for his extradition hearing, which has been fixed for 15 February 2022. In my judgment, those conditions do not address that risk. There is very little to add to the reasons given by District Judges Godfrey and Snow. As they pointed out, the applicant is sought pursuant to a

conviction warrant. He has nearly 18 months to serve. Although there is no suggestion that he was seeking to evade the EAW when travelling to Portugal, the fact remains that he was intending to travel to Portugal and did not have a return ticket. It may be that his sentences will be re-suspended by the Polish Court pursuant to his application to that court, but there can be no guarantee of that. His lack of family or employment ties to the UK is a further factor which increases the risk that he will abscond. In all the circumstances, given that there is in this case no presumption in favour of bail, the risk that he will fail to surrender is too great and is not adequately addressed by the conditions proposed.

9

I have carefully considered Mr Hepburne Scott's submissions about the applicant's suicide attempt, even though there is no medical evidence to support it. There is no a priori reason to suppose that the applicant is not receiving all appropriate care for his mental illness from medical staff at HMP Wandsworth and no reason to suppose that his condition is being exacerbated or the risk of suicide significantly increased by his continued detention. I have heard and taken into account Mr Hepburne Scott's submission, made on instructions, that his emotional state is significantly affected by his continued detention, but I do not think that it would be right to draw any conclusions on that matter in the absence of medical evidence.

10

If medical evidence were to emerge as to any link between his condition and continued detention - and, in particular, as to any link between the risk of suicide and continued detention - he could, of course, make a further bail application on the basis of that evidence. If such an application were made, it would have to be considered alongside all the other material.

11

For present purposes, however, I am satisfied that the conditions proposed do not adequately address the risk of failure to surrender and I, therefore, refuse bail.
