



Neutral Citation Number: [2021] EWHC 3338 (Admin)

Case No: CO/1726/2021

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

Royal Courts of Justice
Strand, London, WC2A 2LL

8th December 2021

Before :

MR JUSTICE FORDHAM

Between :

GIORGIAN CRISTIAN MARTIN

- and -

GERMAN JUDICIAL AUTHORITY

Samantha Davies (instructed by AMI Solicitors) for the **Appellant**

The **Respondent** did not appear and was not represented

Hearing date: 8/12/21

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 for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment.

MR JUSTICE FORDHAM :

Introduction

1.

This is a renewed application for permission to appeal in an extradition case. The hearing was in-person at the Royal Courts of Justice. Two grounds of appeal are advanced. Ms Davies has produced for today a document which she used as a 'speaking note' and which, in the event, has saved time and promoted efficiency at today's hearing. Permission to appeal was refused by Jay J on the papers on 14 October 2021. DJ Ezzat ("the Judge") had ordered extradition to Germany on 10 May 2021 after an oral hearing that same day at which the Appellant gave evidence. He had been arrested, two months earlier on 6 March 2021, on an accusation European Arrest Warrant (EAW). The EAW had been issued on 24 June 2020 and certified on 6 March 2021. It relates to alleged index offending described as "attempted aggravated gang theft", involving the theft or attempted theft of catalytic converters from vehicles at a garage, on 28 February 2020 when the Appellant was aged 23. He is now aged 25.

The deficiency in the renewal grounds

2.

The perfected grounds of appeal in this case are dated 28 May 2021. They were sparse, identifying heads of appeal and submitting that those were reasonably arguable and that the Judge erred in his conclusions. The grounds of renewal dated 21 October 2021 said a lot more about why the Judge was said to have gone wrong, but they did not engage with the reasoning of Jay J in refusing permission to appeal. That latter deficiency raises a 'red flag' within the Administrative Court Office, and puts the Appellant in breach of the Criminal Procedure Rules 50.22(3), necessitating an application for an extension of time to file grounds of renewal which makes proper reference to the paper Judge's reasoned refusal. That application has duly been made. The Respondent had notified its adoption of the submissions in its Respondent's Notice and that it did not intend to appear at this renewal hearing. In written submissions, it has seized the opportunity presented by the deficiency to invite this Court to refuse the application for the extension of time. Ms Davies invites me to grant the extension of time, on the basis that the deficiency was an 'error on the face of the document', that it has been rectified, and that it has caused no prejudice. I am quite satisfied that lessons will have been learned from this experience. I am concerned at the prospect that the Appellant should be disadvantaged by this deficiency. I also take into account that the grounds of renewal were properly detailed, that the paper judge's refusal was very brief, and that the renewal grounds inevitably needed to grapple with why the Judge had been wrong, from which it would follow that the paper judge's refusal of permission to appeal was wrong. None of that serves to dilute the importance of grounds for renewal making proper reference to the reasoning of a judge refusing permission to appeal on the papers. When the application for the extension of time was made and the Respondent had responded to it, having looked at the matter on the papers I decided that it was appropriate for the application to be considered, alongside the case as a whole, at today's renewal hearing. In all the circumstances, I grant the application for the extension of time to rely on the renewal grounds which address the deficiency to which I have referred.

A straightforward case

3.

In refusing permission to appeal on the papers, Jay J referred to this as a straightforward case overall. I agree with that assessment.

Section 21A

4.

The Judge's reasoned evaluation of why extradition does not fall foul of the statutory proportionality requirement relating to the seriousness of the alleged index offence (section 21A(1)(b)) of the 2003 Act) is, in my judgment, plainly unimpeachable. The statute refers (section 21A(2)(3)) to matters which a judge can, if the judge considers it "appropriate", consider in relation to this question. It also explains (section 21A(2)) that those matters are exhaustive. In the present case, the Judge did consider it appropriate to address those matters and clearly had regard to them. In my judgment, beyond reasonable argument, this was not a case which necessitated the judge having to posit the scenario of a sentence in a court in this jurisdiction. Still less was it a case involving a scenario such as that which arose in the case and passage relied on by Ms Davies, *Antochi v Germany* (2020) EWHC 3092 (Admin) at paragraph 23. That passage in that judgment was concerned with the situation which arose where it had been evaluated that the requested person was not likely to receive a custodial sentence. Here, the Appellant is accused of engaging with others in stealing or attempting to steal car parts, involving planned and group criminality. The offence, which has a statutory maximum of 10 years, is one as to which any sentencing will be on the basis that the offence was planned, was committed at night and was committed as part of the group. Moreover, the Appellant has previous convictions in Germany for thefts in November 2019 and January 2020, the latter just a month before the alleged index offending. No less coercive measures had been identified before the Judge. The Judge went through all of these features and unimpeachably concluded that there was no statutory section 21A(1)(b) lack of proportionality. There is no realistic prospect that this Court at a substantive appeal would overturn that outcome.

Article 8 ECHR

5.

That leaves Article 8 ECHR, to which I now turn. The grounds of renewal and perfected grounds of renewal, and Ms Davies' speaking note used for the purposes of today's renewal hearing, identify a number of features on which reliance is placed. All of the features identified are to be found in the Judge's succinct reasoning. He accepted that the index offending is "not the most serious" and that the Appellant did not leave Germany to return to the United Kingdom as a "fugitive". The Judge recognised that the Appellant has no UK convictions. As to that, the grounds of renewal refer to an "unblemished record in the United Kingdom", and the speaking note emphasises the submission that this is a requested person who has "turned his life around". But, as the Judge also recognised, these need to be put alongside the fact that the Appellant had come to the United Kingdom from his country of origin (Romania) in February 2018, aged 21, and that his criminal offending in November 2019 (theft), January 2020 (theft) and February 2020 (driving without a licence), all in Germany, together with the alleged index offending later in February 2020 of the attempted aggravated gang theft of the catalytic converters (also in Germany), were all matters which post-dated the Appellant having come to the United Kingdom and which took place during his travels to Germany. The Judge recognised that the Appellant had secured employment in this country and claimed to be sending financial support to his child and family in Romania, albeit commenting that there was a lack of evidence to substantiate that latter claim. The Judge recognised that the Appellant has a partner in the United Kingdom, but also recognised that she is able to work here that she had been in Romania between mid-2020 and early 2021, and that they have no children together. The Judge's observations in relation to the limited level of private life and family life in the United Kingdom were observations being made against a factual backdrop that the Judge clearly understood, and cannot in my judgment be criticised for the

purposes of giving viability to an Article 8 appeal. The Judge recognised that the index offending in February 2020 was recent and that there was no question of delay on the part of the German authorities in its pursuit through the June 2020 EAW. Having conducted the requisite 'balance sheet' exercise, the Judge concluded that there was no Article 8 incompatibility, having regard to the weighty public interest factors in favour of extradition, observing that the impact on family and private life came nowhere close to being exceptionally severe. There is no realistic prospect that this Court at a substantive hearing would conclude that the Judge's evaluative judgment as to article 8 proportionality involved an error of approach, still less a wrong outcome.

An encapsulation

6.

Jay J, refusing permission to appeal on the papers, encapsulated all of this in pithy language, observing that "the perfected grounds of appeal fail to particularise the Appellant's case", and continuing: "The [Judge's] decision may be succinct, but this was a straightforward case overall. There are no arguable grounds for challenging it". I entirely agree. Permission to appeal is refused.

8.12.21