



Neutral Citation Number: [2023] EWHC 2953 (Admin)

Case No: CO/1024/2023  
AC-2023-LON-000204

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Tuesday, 21<sup>st</sup> November 2023

**Before:**  
**FORDHAM J**

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**Between:**  
**LUKASZ KOBUS** **Appellant**  
**- and -**  
**POLISH JUDICIAL AUTHORITY** **Respondent**

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**George Hepburne Scott** (represented by Bark & Co) for the **Appellant**  
The **Respondent** did not appear and was not represented

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Hearing date: 21.11.23

Judgment as delivered in open court at the hearing

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**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.

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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 is aged 42 and is wanted for extradition to Poland. That is in conjunction with a conviction Extradition Arrest Warrant, issued on 31 May 2022 and certified on 20 October 2022, on which he was arrested on 9 November 2022 and released on conditional bail. The index offending took place between September 2001 (aged 20) and July 2012 (aged 31). There are 3 offences of fraud, 2 offences of theft and one offence of drink-driving. District Judge Zani (“the Judge”) ordered extradition on 15 March 2023. That was after an oral hearing on 13 January 2023 at which the Appellant was represented by Counsel, and at which he and his partner both gave live evidence.
2. The May 2022 Extradition Arrest Warrant was a replacement warrant. An earlier Extradition Arrest Warrant had been issued in December 2015 and certified in June 2016. The Appellant had been arrested on that earlier warrant in June 2020, and was remanded in custody. His extradition had been ordered by District Judge Hamilton in September 2020. Appeal proceedings to this Court had ensued. They did not succeed. But, in parallel, the Appellant had applied in Poland for the aggregation of the sentences. That aggregation application was granted on 24 June 2021. The sentences were aggregated, into an overall custodial sentence of 5 years 6 months. The consequence was that the first Extradition Arrest Warrant was withdrawn in July 2021, the extradition order quashed by this Court, and the Appellant was released from remand after serving 13 months. The replacement Extradition Arrest Warrant followed in May 2022. The time to be served is described as 4 years 7 months 16 days.
3. The Judge (unlike DJ Hamilton) found in the Appellant’s favour that he had not been proved to be a fugitive. That was essentially because no relevant obligation was proved to have been in place and breached by the Appellant when he had left Poland and had come to the United Kingdom in 2011.
4. The Appellant’s relationship with his partner predates the Appellant coming to the UK in 2011. The couple have a daughter who was born in April 2011 and is now 12. What happened was that the partner and the daughter (then aged 2) had followed the Appellant to the UK from Poland in 2013. As the Judge observed, the partner had been sole carer for the daughter (then aged 8-9) in the 13 months between June 2020 and July 2021 while the Appellant was on extradition remand.
5. As to extradition remand, I record this feature of the case. The Judge was told by the Appellant that 11 of the 13 months remand from the earlier extradition proceedings must have been deducted to arrive at the 4 years 7 months 16 days, but that this left 2 months which would also need to be deducted. Nothing turns on this for today. Credit will need to be given for relevant qualifying remand. I can leave it at that.
6. The sole issue on appeal is Article 8 ECHR (private and family life) involving the Convention rights of the Appellant, the partner and the daughter.
7. In support of the appeal, Mr Hepburne Scott has emphasised the following features of the case in particular. The threshold for today is reasonable arguability. The Appellant is not a fugitive. There is a lengthy passage of time between the index offending (2001 to 2012), which is now 11-22 years ago, and today. There is the serious impact

of extradition on the Appellant, on the partner and on the 12 year old daughter whose best interests are a primary consideration. The Appellant has turned his life around. There are no offences since July 2012, 13 years ago, and no offences in the UK. He has strong private and family life in the UK. He had a solid employment record up to his arrest in 2020. The index offending is, relatively speaking, not serious. He did not go on the run after his release in July 2021 when he had that opportunity.

8. In writing, Mr Hepburne Scott had also said this. The birth of the daughter had a transformative effect on the Appellant, reflected in the absence of any further criminal conduct after that event. I think caution is needed as to this transformative effect of that birth event. The final offence of fraud was on 18 July 2012. That fraud involved presenting false employment information to a finance company in Poland. The daughter had been born on 28 April 2011. Mr Hepburne modified his position orally to a transformative effect after July 2012, in conjunction with the young daughter having arrived and growing up.
9. The passage of time has the well-known character of tending to reduce the weight of the public interest in support of extradition. There was a long sequence of offending in September 2001 (fraud, involving a mobile phone), December 2008 (drink-driving), May and September 2009 (shoplifting), January 2011 and July 2012 (two further frauds, involving a hire vehicle and the loan from the finance company). The passage of time to 2013 is explained. There were suspended sentences imposed for the earlier offences, but these were breached and activated in 2013. The 2012 offences themselves entailed custodial sentences of 28 months and 8 months respectively, which the Appellant did not serve. All of this led to the previous Extradition Arrest Warrant in 2015, in a context where the Appellant had left Poland in 2011. He did not breach any evidenced obligation. But that does not mean he could readily be found. It does not make the passage of time culpable. It does not mean he had, or was given, a false sense of security. The passage of time since the Appellant was arrested in June 2020 is directly linked to the domestic extradition process running its course, and the Appellant's successful application in Poland for an aggregation, which required a fresh Extradition Arrest Warrant, a fresh arrest and a fresh set of proceedings.
10. The passage of time has the well-known character of tending to increase the weight of the private and family life ties that can be relied on as weighing against extradition. The Appellant – I repeat – is not a fugitive. He has settled ties with the UK in the last 13 years. He had the established pattern of employment until his first arrest. He has an established family life. He has no UK convictions. The blameless partner and daughter have been here for 10 years; the daughter, since the age of two. He did not leave when released in July 2021, knowing that further extradition proceedings were on the cards.
11. All of these points and the other relevant features of the case were recognised by the Judge. But what the Judge also recognised was that these are serious matters, with a significant period of custody to be served. There are strong public interest considerations in favour of extradition to face the 4 years 7 months 16 days of custody (less any further qualifying remand) which is left from the aggregated 5 years 6 months. The Judge carefully considered the impact on the Appellant, the partner and the daughter. So have I. The Judge also recalled that there had been the 13 month period while the Appellant was on remand, during which the partner was able to act as sole carer to the child (aged 8-9). I would add to that that there was the period of 2

years between 2011 and 2013 when the partner and the young daughter (aged 0-2) had remained behind in Poland while the Appellant was in the UK, before joining him here.

12. Stepping back and looking at the picture overall, there is no realistic prospect in my judgment that an appeal would succeed at a substantive hearing. That was the view of Johnson J on the papers in September 2023 on refusing permission to appeal and I agree with it.

21.11.23