



Neutral Citation Number: [2024] EWHC 1262 (Admin)

Case No: AC-2023-LON-002336

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 07/06/2024

**Before :**

**MR JUSTICE JULIAN KNOWLES**

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**Between :**

**LEONIDA VASILE**  
**- and -**  
**BRAD CITY COURT, ROMANIA**

**Appellant**

**Respondent**

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**Matei Clej (instructed by AM International Solicitors) for the Appellant**  
**The Respondent did not appear and was not represented**

Hearing dates: **16 May 2024**

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 7 June 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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## Mr Justice Julian Knowles:

### Introduction

1. This is a renewed application for permission to appeal against the order for extradition to Romania made by District Judge Greenfield on 27 July 2023. Permission to appeal was refused on the papers by Linden J on 5 February 2024.
2. The ground of appeal is that extradition would be incompatible with the Appellant's rights and those of his family under Article 8 of the ECHR, and thus that extradition is barred by s 21A of the Extradition Act 2003.
3. I heard oral submissions from Mr Clej for the Appellant on 16 May 2024 and reserved my decision.

### The facts

4. The Romanian extradition warrant is an accusation warrant for two alleged offences.
5. Firstly, it is said that on 10 May 2022 the Appellant and another, Laurentiu-Costin Macinic, committed a distraction burglary. They went to the victim's apartment and entered under the pretext that they were checking the gas. Whilst the Appellant kept the victim and her husband occupied, his accomplice stole €22,000 (£18,891.26) and 34,000 RON (£5,885.07).
6. Second, it is said that 10 September 2022 the Appellant and two others went back to the same victim's apartment and using the same essential *modus operandi* (in this case, pretending to check the water pipes), stole 5,400 RON (£934.58).
7. On any view, these were serious offences involving considerable amounts of money. The victim was vulnerable. The potential sentence if convicted ranges from two – seven years custody.

### Proceedings below

8. Before the district judge, a number of points were taken which I do not need to deal with, given the only issue now remaining is Article 8. In relation to that, the issuing judicial authority described the offences as serious and as involving a vulnerable victim.
9. The district judge considered Article 8 at [20] et seq of his judgment. He directed himself (correctly) on the relevant legal principles by reference to the well-known case law. In particular, he correctly said that it is likely that the public interest in extradition will outweigh the Article 8 rights of the family unless the consequences of the interference with family life will be exceptionally severe.
10. At [22] he undertook the required *Celinski* balancing exercise and listed the factors for and against extradition. These were as follows.
11. Against extradition:
  - a. The Appellant has a wife and four children settled in the UK who are emotionally and financially supported by him.

- b. He has settled status and was in employment at the time of the allegations.
  - c. He has no UK convictions.
12. For extradition:
- a. The weighty public interest in the UK ensuring that the treaty obligations of the UK are kept and applied;
  - b. The weighty public interest in ensuring the UK is not and does not become a safe haven for criminals.
  - c. That the Appellant is accused of serious recent offending.
13. At [23] the judge expressed his conclusion:

“23. Balancing these factors, I consider that the balance falls in favour of extradition. The RP is alleged to have been involved with recent offending which involves the targeting twice of vulnerable individuals. The RP has a poor record of criminality in Romania. The amount taken on both occasions from the alleged victims is substantial. There is prima facie evidence produced by the JA of the RP’s involvement. The RP can deploy at trial any alibi evidence if he wishes for consideration by the tribunal. Although the effect of his extradition upon his wife and children will be upsetting and may produce some hardship, there are no exceptional facts as regards his partners or the children’s health that are over and above the hardship caused by a removal in these circumstances. His partner is able to work. And provide some financial support. There are other family members who could assist.”

### **The decision of the single judge**

14. The single ground of appeal was that the district judge’s conclusion on Article 8 had been wrong.
15. In refusing permission to appeal, Linden J said:

“1. A is a Romanian national aged 38. He has 11 convictions for offences including dishonesty and manslaughter between 2002 and 2016, and has served several prison sentences in Romania. He says that he has been living in this country since 2020. He has pre-settled status and he lives with his wife and their 4 children, who were aged between 4 and 11 at the time of the hearing before the DJ.

2. A is sought on an accusation warrant which was issued on 25 November 2022 and certified by the NCA on 30 November 2022. He is accused, with others, of two distraction burglaries which were committed against the same vulnerable victim on 10 May and 10 September 2022. The burglaries involved a degree of planning and caused a substantial loss to the victim. The maximum sentence for these offences is 7 years’ imprisonment.

3. A contends that his extradition would be contrary to Article 8 ECHR and disproportionate, and therefore contrary to both sections 21A (1) (a) and (b) of the Extradition Act 2003. He does not criticise the DJ's directions of law or his application of the relevant legal principles. Rather, the appeal is a complaint that the DJ was wrong to rely on A's poor criminal record without contextualising it by acknowledging that he had not offended in this country. He also argues that the DJ gave insufficient weight to A's family ties in this country, the evidence about his partner's financial, emotional and physical dependence on him and her inability to look after the family in his absence, his contention that the extended family would not be able to assist his partner in the event of his extradition, the evidence that he was already settled in the UK when the offences were committed and the fact that he could not be shown to be a fugitive.

4. The appeal is bound to fail. The DJ took into account all of the considerations relied on by A, including the fact that he had not offended in this country (see [22](iii)). He was entirely right to take into account A's history of offending, not least because this was relevant to the seriousness of the offending of which he is now accused. He also took in to consideration the impact of extradition on A and his family which he accepted would be upsetting and cause some hardship. However, this was plainly a case in which the public interest in extradition outweighed these considerations.

5. There are indications in the Perfected Grounds that A also argues, on the basis of CPD 2015 50A.2 and 50A.5, that the offences of which he is accused were not sufficiently serious for it to be proportionate for him to be extradited. This was not his case before the DJ but, if it is part of his appeal, the argument is hopeless for reasons which were spelt out by the DJ at [25] and are so obvious that they need not be repeated.

6. Stepping back, I do not consider that the Perfected Grounds of Appeal establish a reasonably arguable case that the DJ's decision was wrong."

### **Renewal application and decision**

16. The renewal grounds at [16]-[18] argue as follows:

"16. The Applicant maintains that the DJ was wrong to rely on his criminal record without contextualising it by acknowledging that he had not offended in this country. This is particularly so in light of the fact that the last conviction of the Applicant's International Conviction Certificate was in 2016, 7 years ago.

17. The Applicant respectfully disagrees was plainly a case in which the public interest in extradition outweighed these considerations. The Single Judge writes that the DJ 'took in to

consideration the impact of extradition on A and his family which he accepted would be upsetting and cause some hardship'. The Applicant submits that there would plainly be more than 'upset' and 'some hardship' in this case. It is inconsistent to assess the impact at this level whilst also finding, as the DJ did at p 12, § 19-I that the Applicant 'has a wife and four children settled in the UK who are emotional and financially supported by him'.

18. The evidence as summarised by the DJ in his judgment on Article 8 appears to be limited to what appears in §§ 13-14. There is no note of any cross-examination on Article 8 and compatibility with the right to family life of either the partner or the 4 children. It is therefore not clear on what basis the impact on four young children of being deprived of one parent for a substantial length of time could possibly be described as causing just 'some hardship'. On that basis, the DJ has failed to properly reason his conclusion that the balance is in favour of in extradition, and so his conclusion is arguably wrong."

17. In his submissions before me, Mr Clej amplified these submissions. He referred to the fact that two of the children are twins. He emphasised their young age. He said that the district judge had not assessed the matter thoroughly enough. He should have given more weight to the effect on the family of the Appellant's extradition. The effect on the children was understated or underplayed. There was evidence from the Appellant's partner that extradition would be traumatic.
18. I have taken account of all the points made clearly by Mr Clej both orally and in writing however, like Linden J, I have concluded that an appeal has no prospects of success and I therefore refuse permission. My reasons are as follows.
19. There is no dispute that the judge directed himself correctly on the law. There can be no dispute he had all the evidence clearly in mind including, in particular, the effect extradition would have on the family.
20. The judge did not fail to contextualise the Appellant's offending. He referred to his lack of convictions in this country.
21. The real question here is whether there was arguable evidence of severe hardship in the event of extradition. There was not. Unfortunately, extradition almost always has a familial impact financially and emotionally and especially so where young children are involved (just as a domestic prison sentence does). Generally something more is needed. There was not here, for example, evidence of some particular hardship over and above that which is always attendant when a parent is extradited.
22. The judge did not leave any factor out of account. He reached a conclusion which was open to him on the evidence. It was not arguably wrong. He did not weigh the factors in a way which was so erroneous it would permit this court to overturn his conclusion. These were serious offences involving large sums of money and a vulnerable victim who was (it can be inferred) deliberately targeted twice.

23. For these reasons, and those given by Linden J which I adopt, this renewed application is refused.