

Craig (AP) (Appellant) v Her Majesty's Advocate (for the Government of the United States of America) and another (Respondents) (Scotland)

Case ID: UKSC 2020/0185

Case summary

Issue

Does the failure to bring into force certain amendments to the Extradition Act 2003 in Scotland give rise to a breach of article 8 of the European Convention on Human Rights?

Facts

Mr Craig is a UK national who lives in Scotland. In May 2017, a request was made by the US Government for his extradition to the US, where he is accused of committing an offence relating to securities fraud.

The process for determining whether a person should be extradited from the UK is governed by the Extradition Act 2003 ("the 2003 Act"). Section 79 of the 2003 Act sets out a series of bars to extradition to "category 2" countries, such as the US. In England, Wales and Northern Ireland, that list includes a "forum" bar, which applies if the extradition would not be in the interests of justice, for example because a substantial measure of the alleged criminal activity was performed in the UK. In Scotland, the legislative amendments which inserted the "forum" bar into the 2003 Act ("the Forum Bar Provisions") have not been brought into force. In December 2018, the Court of Session declared that failure to be unlawful.

In July 2019, a judge at the Edinburgh Sheriff Court decided that Mr Craig's extradition was not barred under section 79 of the 2003 Act, that his extradition would be compatible with the European Convention on Human Rights ("ECHR"), and that the case should be sent to the Scottish Ministers for their decision. In September 2019, the Scottish Ministers decided that Mr Craig should be extradited, in accordance with section 93 of the 2003 Act.

Mr Craig appealed against the Scottish Ministers' decision to the High Court, unsuccessfully, under section 103 of the 2003 Act. He now appeals to the Supreme Court, under paragraph 13 of Schedule 6 to the Scotland Act 1998. He argues that the failure to bring the Forum Bar Provisions into force in Scotland gives rise to a breach of article 8 of the ECHR, insofar as there is an interference with his right to respect for his private and family life which is not "in accordance with the law".

Judgment appealed

[\[2020\] HCJAC 22](#)

Parties

Appellant(s)

James Craig

Respondent(s)

Her Majesty's Advocate (for the Government of the United States of America)

Appeal**Justices**

Lord Reed, Lord Lloyd-Jones, Lord Kitchin, Lord Burrows, Lord Stephens

Hearing start date

25 November 2021

Hearing finish date

25 November 2021

Watch hearing

25 November 2021 [Morning session](#) [Afternoon session](#)