

# **Gheorghe v Crown Prosecution Service**

**[2018] EWHC 3648 (Admin)**

Before: Mr Justice Ouseley

Thursday, 13 December 2018

## **Representation**

Ms H Hinton (instructed by Coomber Rich Solicitors) appeared on behalf of the Applicant.

Mr A Dos Santos (instructed by the Crown Prosecution Service ) appeared on behalf of the Respondent.

## **Judgment**

Mr Justice Ouseley:

1 There are in this case understandable objections to bail because the extradition of the applicant is sought on a conviction warrant to serve a total of three years, six months, which is quite a substantial period and provides a considerable incentive to flee. He has been refused bail twice by the district judges at Westminster Magistrates' Court. One noted that the principal offence, which was procuring the prostitution of a minor, was a serious one, but added that he may be afraid of a severe punishment if he is convicted. He was convicted and he has got the severe punishment. The note also referred to the lack of community ties and that he was a fugitive, having been present at his trial.

2 On the face of it, this is quite a serious set of problems, but this is something of an unusual case. The conviction for the most serious offence, that of pimping, led to a suspended sentence, suspended for five years, during which time a number of probation conditions were imposed, which included notification of addresses and so on. There was no bar on his leaving Romania, it seems, so long as notification was given. The probation report says that he complied with all requirements during the probation period. So the court had made a number of quite strict requirements, he had been obliged to keep to them and had done so.

3 The suspended sentence was activated in this instance, not because of any breach of his bail conditions or breach, on the face of it, of any condition of the suspended sentence; he was convicted, after having been on probation for some years, of offences committed before he was convicted in relation to the pimping offence, and it is that which has led to the activation of the suspended sentence and its aggregation with other sentences. So the offence which led to the

activation was not one which was directly in breach of a condition to avoid future offending.

4 It is also significant that the final sentencing in relation to the two dishonesty offences from 2010 or 2011, which led to the activation of the suspended sentence, was not until November 2017, so very close to the end of his suspension period. I also note, though it is a point rather more in his favour than against him, that he attended the trial in Romania for those proceedings and instructed lawyers in relation to the appeal. So he is not someone who has kept himself away from the Romanian courts and Romanian law. The fear that he is a fugitive may be technically correct – there may be some substance in it after November 2017; that is all to be played out in the magistrates' court – but I am not persuaded at the moment that that is a strong basis for refusing bail in these particular circumstances.

5 He has had various jobs since coming to the United Kingdom in 2014. He has a job offer, for what it is worth, in a restaurant, if he is released on bail, but his community ties, although he has a girlfriend here, remain weak. More importantly there is £10,000 in security to be offered, half from his landlord, the man with whom he would live, and half from a Romanian colleague. To each of them £5,000 would represent a significant sum of money. They will have to hand that money over before there is any release. Inquiries have been made about the police station to which there would be daily reporting, and the bail address. Concerns over that have been assuaged.

6 Taking all of those matters into account, I am satisfied, contrary to what might be the normal expectation in a case of someone who is facing a conviction warrant for three and a half years to serve, that this is a proper case for bail. He will be bailed until 31 January 2019 to appear at Westminster Magistrates' Court on the conditions set out in Ms Hinton's skeleton, with minor variations, and it will be for the district judge then to assess whether bail should be continued for any further hearings, which at the moment appear likely in relation to further information to be sought in relation to a defective EAW, as it is now accepted to be, in relation to place; possible assurances in relation to prison conditions, and perhaps in relation to fugitive status. But for present purposes I am prepared to grant bail on the conditions therein set out.

7 Ms Hinton, that means that you will have to draft an order that contains what I regard as proper bail conditions. I do not do that for advocates, and I have had very many distinguished advocates, including silks, pass in front of me orders which I decline to make because they are not ones you could enforce. So if you just take the skeleton, residence at 19 Larches Cottage is not a condition. It has to be a condition that he shall live and sleep at 19 Larches Cottage Gardens and be in residence there, and you will insert the time but you will also explain when you send in the order the outcome of the researches you have as to what the hours of work will be.

MS HINTON: Yes, my Lord.

MR JUSTICE OUSELEY: The £10,000 pre-release security will have to specify whom and delivery to the magistrates and no release until it has been delivered. He has to submit to having an electronic tag placed on him before he is released, or as soon as he is released, for the purposes of monitoring the curfew. You then have to insert reporting daily between certain times to Kidderminster Police Station. You can discuss the times with him. His passport is to remain surrendered, but I was not sure whether there was a Romanian identity card in addition which he had; if there is, it has to be surrendered. And he is not to travel to any port or airport or station giving access to international travel directly. I appreciate if you go to a station you can eventually find your way to another station, but he is not to go to any station giving direct access to international travel. That is principally St Pancras.

MS HINTON: Yes, my Lord. Thank you. There is just the Romanian identity card and it is surrendered.

MR JUSTICE OUSELEY: Well, it is up to you. He is not going to be released until I have signed the order and the money is deposited.

MS HINTON: Yes. My Lord is entirely right to correct this rather short-circuited set of conditions.

MR JUSTICE OUSELEY: No, no, it is fair enough for that but not fair enough for signing—

MS HINTON: Not quite right.

MR JUSTICE OUSELEY: – and I have had occasion for those who are in a hurry to say no. So I will receive that in due course. I know you have got another engagement.

MS HINTON: Thank you, I do.

MR JUSTICE OUSELEY: Thank you very much.

MS HINTON: Thank you, my Lord.