

# Djoughri v Crown Prosecution Service

CO/4564/2018

High Court of Justice Queen's Bench Division Administrative Court

**[2018] EWHC 4012 (Admin)**

Before: Mrs Justice McGowan

Tuesday, 20 November 2018

## Representation

Mr M. Summers QC appeared on behalf of the Appellant.  
Mr B. Watson appeared on behalf of the Respondent.

## Judgment

Mrs Justice McGowan:

1. I will summarise the facts briefly because the history of this matter is set out in considerable detail in the documents before the court. In summary, the appellant was arrested on 7 January 2018, remanded into custody on 26 February 2018, sustained a heart attack - in shorthand - and was granted bail on 23 March, but released on 25 March 2018. The position since then has varied over time, but there have always been a significant number of quite stringent bail conditions attached to his release on bail.
2. It is not for me, today, to decide or determine the merits of the allegations, if proved they are extremely serious and I accept for today's purposes that there was material upon which the District Judge was entitled to find that there was a flight risk, that there is access to very substantial funds and, for my part, I am entitled, notwithstanding the very substantial security lodged with the court, to form the view that if this man is genuinely in fear of an eventual conviction and sentence, that that might be a price worth paying to facilitate his escape.
3. There seems to me to be one issue that I must determine in this case, and it is whether the application to relieve him of some of the burdens of the reporting conditions is justified by his current health. I am not greatly troubled by his desire to travel in order to see his grandchildren, it is perfectly clear that they can travel in order to see him, and the restrictions on his geographical movement, albeit limited - and significantly limited - is not such that he is denied access to places of entertainment, restaurant, cinemas and the like, where he can meet and see his grandchildren.
4. The determination of this matter was adjourned at the request of the requesting State and now I think is due to be heard on 21 January next, approximately two months away. I do not find that there is any reason at all to interfere with the District Judge's decision not to remove the geographical condition.
5. I am more troubled by the daily reporting as it seems to me that what the courts must be anxious to ensure is that the proper balance between the need for stringent conditions to prevent flight is met and achieved without causing a disproportionate risk to the appellant's health. I have a letter dated 12 November from Dr Alan Mitchell, who has had care, it seems, of the applicant since March of this year after his admission to hospital

having suffered cardiac problems whilst at Her Majesty's Prison, Wandsworth. Dr Mitchell describes:

"Symptoms of continuing breathlessness and dizziness. I would be supportive of an application to the court seeking that he is not required to attend the police station on a daily basis as having to travel and stand around for up to 45 minutes undoubtedly will cause significant discomfort."

Of greater assistance is a letter from his consultant cardiologist, Dr Sohal, dated 13 November 2018, again setting out limited history, but sufficient for these purposes. It seems that there have been no sustained arrhythmias, at least on his most recent examination on 9 November, and he too, having been asked to deal with the question of the daily reporting, says:

"This may have an adverse effect on his recovery and any move to have this requirement reviewed will have my full support."

6. I find this troubling, I must say, and, to that extent, I would be prepared to entertain a renewal of this application if there were greater medical evidence to support the position. A daily reporting requirement, on the facts of this case, is not unusual nor exceptional and if it were not for the health considerations would certainly not be an objectionable one. The health considerations raise an issue. At the moment, I am not persuaded on the face of the medical evidence before me that it is a sufficient issue to justify my interfering with the decision of the District Judge. If there is material that does further justify that interference, as I say, then it seems to me that the matter should go back either to the District Judge or, if necessary, to this court.

7. I raised the question of the enhancement of other conditions to meet the relaxation of this if that were thought to be the proper position and I recognise the practical difficulties so far as the local police force are concerned of enforcing the doorstep "condition", but that seems to me not to be a matter of principle. It is a condition imposed to ensure that he can be found at the address at which he lives, and at which he is ordered to live and sleep every night. It is not his fault that that is not being enforced more often or at all, but that perhaps is not a matter for me to determine today.

8. The position is that I do not accede to the application to remove the two bail conditions. I am not persuaded that there is any merit in the application to remove the geographical condition. I understand the inconvenience of not being able to travel to sports venues but, I think in the scheme of things, that is not a great matter. I am more troubled, as I say, by the medical issue but in the absence of clearer and more persuasive medical evidence, that there is a real and significance risk of damage to his health rather than merely discomfort in his being required to attend the police station on a daily basis. I do not remove that condition. If it is thought that a variation in the time of day at which he has to sign on and report might facilitate a speedier turnaround then I have no doubt at all that that can be accommodated by agreement, and if his willingness to attend earlier in the morning, for example, was to achieve that then I would certainly urge the parties to see if that accommodation can be reached.

