

From: "████████ (USANYS)" <████████>
To: "████████" <████████>
Cc: "████████)" <████████>, "████████)"
<████████>
Subject: RE: Extradition question

Date: Tue, 15 Dec 2020 16:11:25 +0000

Attachments: Extradition_Section_Draft_(12.15.20).docx

Inline-Images: image003.png; image001.png

████████
Attached is the portion of the current draft related to extradition. If there is anything we should discuss or that seems inaccurate in any way, please let us know. Thanks again for your help.

Best,
████████

From: █████ (USANYS)
Sent: Monday, December 14, 2020 11:52 AM
To: █████
Cc: █████) <████████>; █████) <████████>
Subject: RE: Extradition question

Thanks, █████. I wanted to confirm that this link contains the current extradition act:
<https://www.legislation.gov.uk/ukpga/2003/41>. I know you had sent a PDF of the act, but given the volume of the document, I wanted to include a link instead should the Court choose to take a look. We will let you know if we have any additional questions as we are finalizing the document. Thanks again for all of your help – we really appreciate it.

Best,
████████

From: █████
Sent: Monday, December 14, 2020 8:02 AM
To: █████ (USANYS) <████████>
Cc: █████) <████████>; █████) <████████>
Subject: RE: Extradition question

I got caught up in a bunch of stuff on Friday. Do you have additional questions or are you good to go?

Thx,

████████
████████
US Department of Justice Attaché
United States Embassy
████████

EFTA00016026

[REDACTED]

SBU -LAW ENFORCEMENT

From: [REDACTED] (USANYS) <[REDACTED]>
Sent: Friday, December 11, 2020 2:42 PM
To: [REDACTED]
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>
Subject: RE: Extradition question

Thanks, [REDACTED]. Would 10 am work? I'm at 646-612-0825.

From: [REDACTED] (USANYS) <[REDACTED]>
Sent: Friday, December 11, 2020 3:40 AM
To: [REDACTED] (USANYS) <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>
Subject: Re: Extradition question

Let me know when you get in today and I'll give you a call. I'm around today until around noon your time with one call at 10:30 -11.

[REDACTED]

Sent from a mobile device

From: [REDACTED] (USANYS) <[REDACTED]>
Sent: Friday, December 11, 2020 6:48:58 AM
To: [REDACTED]
Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>
Subject: RE: Extradition question

Thanks so much, [REDACTED]. If you could send along those provisions or any additional thoughts, that would be much appreciated. I also have a few follow up questions. Would you have time for a call sometime Friday, please? Thanks again for your assistance.

From: [REDACTED] <[REDACTED]>
Sent: Thursday, December 10, 2020 6:12 PM
To: [REDACTED] (USANYS) <[REDACTED]>; [REDACTED] <[REDACTED]>
Subject: Fwd: Extradition question

Begin forwarded message:

From: [REDACTED]
Date: December 10, 2020 at 5:36:54 AM EST
To: " [REDACTED]" <[REDACTED]>
Cc: "Chadwick, Amanda J (London)"

<REDACTED>

Subject: FW: Extradition question

Here is the feedback from the Crown Prosecution Service. As noted, a consent in the US would not be binding on a court in the UK. (I can pull the relevant Extradition Act provisions cited below) While I suggested in our call this is like the kind of colloquy necessary for a guilty plea, I am reminded that consent to extradited is irrevocable and not appealable – no so with a plea.

I will try to write something up today, but my DOJ computer has been acting up.

From: Anne-Marie Kundert
Sent: Thursday, December 10, 2020 10:22:36 AM (UTC+00:00) Dublin, Edinburgh, Lisbon, London
To: [REDACTED]
Cc: Punam Chopra (Sensitive)
Subject: RE: Extradition question

Dear all

The standard principle is that extradition should be sought only where it is necessary and proportionate to do so. If a RP indicated a willingness to fully abide by conditions of bail etc then it would be a matter for the US authorities as to whether to accept those terms. If the RP returned to the UK but then reneged on the deal, then the failure to comply with such undertakings would inevitably lead to a Request for extradition and would be a factor on whether the person is detained on bail or in custody. **If the RP was to offer a consent, the Judge in court would need to satisfy himself that the RP had received appropriate legal advice (because it is irrevocable and there is no ground of appeal. The SSHD would then have 2 months to arrange the surrender. The only consent that matters is the one before the extradition judge in the UK and it will usually be determined at the initial hearing but can be offered at any time before the extradition hearing has concluded. There is no caselaw on this to my mind but the relevant statutory provisions are s 72 (7)(b) and 72(8) for full order, s74 (7)(b) and s74 (8) for provisional arrest and s127 and s128 on consent- irrevocable point/legal advice and sending of case to SSHD.**

Hope this helps!

Anne-marie

Anne-Marie Kundert, Unit Head, Extradition
International Justice and Organised Crime Division
Crown Prosecution Service

From: [REDACTED]

Sent: 09 December 2020 13:31

To:

Cc: Punam Chopra (Sensitive) <[REDACTED]>; Anne-Marie Kundert [REDACTED]

Subject: RE: Extradition question

Dear [REDACTED]

Thanks for your email.

I think the difficulty here is as you mention – **the consent given to the US authorities would not be binding on the RP in the UK or on the UK court. Consent to extradition must be given irrevocably in writing to the UK court under s72 (8) Extradition Act 2003. In other words what the RP is offering in the US is a promise to consent before the UK court, which is unenforceable.**

I hope that assists – I don't have a case to hand. Anne-Marie returns tomorrow and may be able to add.

Regards



[REDACTED] | Unit Head

Extradition Unit | International Justice and Organised Crime Division | 102 Petty France |
London | SW1H 9EA | DX: 161330 Westminster 11

✉:

From: [REDACTED]

Sent: 09 December 2020 12:16

To:

Cc: Punam Chopra (Sensitive) <[REDACTED]>; Anne-Marie Kundert <[REDACTED]>

Subject: RE: Extradition question

Hi [REDACTED] –

I got a bounce back from Anne-Marie. Any thoughts on this?

Many thanks,

[REDACTED]

[REDACTED]

From: [REDACTED]

Sent: Wednesday, December 9, 2020 12:11 PM

To: Anne-Marie Kundert <[REDACTED]>

Cc: Punam Chopra (Sensitive) <[REDACTED]>

Subject: Extradition question

Dear Anne-Marie - I hope you are well. It has been too long since we have talked!

I have a UK extradition question which has been raised by a UK citizen facing a US crime and currently being detained in the US. The defendant is seeking bail in the US and wants to execute a prophylactic "consent to be extradited" from the UK as proof that he is not a flight risk.

My understanding of UK law is that even if a defendant consents to be extradited, a UK judge still has to independently be satisfied that the extradition comports with UK law. So, for instance, if the defendant is released, flees to the UK, and then faces UK extradition, that consent may be evidence, but a UK judge would still have to decide on all factors potentially applicable at the time of the extradition. (The defendant may also claim that his prophylactic consent was coerced by his condition in the US.) Do I have that right? Is there a case or two which I can cite which stands for that proposition?

Many thanks!

Best,

U.S. Department of Justice Attaché
United States Embassy – London

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