

## THE HIGH COURT

Record Number: 2006 No. 68 Ext

BETWEEN

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

APPLICANT

AND  
MICHAEL BREEN

RESPONDENT

**Judgment of Mr Justice Michael Peart delivered on the 4th day of March 2008**

1. The surrender of the respondent is sought by a judicial authority in the United Kingdom on foot of a European arrest warrant dated 26th May 2006, which was endorsed for execution here by order of the High Court on the 11th July 2006. The respondent was arrested on foot of same on the 18th July 2006 and brought before the High Court as required by s. 13 of the European Arrest Warrant Act, 2003, as amended ("the Act"). He was remanded from time to time pending the hearing of this application for his surrender under s. 16 of the Act.

2. No issue is raised in relation to the identity of the respondent, and the Court is in any event satisfied from the affidavit evidence of the arresting officer, Sgt. Linehan that the person who was arrested is the person in respect of whom this warrant has been issued.

3. The warrant seeks the surrender of the respondent so that he can be prosecuted in England for the offence of escaping from lawful custody contrary to Common Law. From the warrant it is clear that while serving a sentence of imprisonment in a prison in Lincolnshire, which had been imposed upon him by a Court in Jersey (Channel Islands), that prison being what is known as 'an open prison', he escaped from that prison and came to this country. A point of objection has been raised as to correspondence, and in that regard it has been contended on the respondent's behalf that leaving an open prison before completion of sentence is to be distinguished from escaping from prison, and in this way it is sought to contend that the action of the respondent of leaving that prison would not, if it had been done in this jurisdiction, amount to the offence in this jurisdiction of escaping from lawful custody contrary to Common Law. No authority has been put forward for such a proposition, and I am satisfied that if the respondent left an open prison in this jurisdiction without lawful authority, thereby escaping in the normal sense of that word, he would be guilty of the offence of escaping lawful custody contrary to common law, and I am satisfied therefore that correspondence is made out. It cannot be contended in my view that there is some distinction to be drawn between an open prison and what I will describe as a closed or lock-up prison for the purpose of the offence.

4. The minimum gravity requirement in relation to that offence here is satisfied, since the offence carries a possible maximum sentence of life imprisonment.

5. Subject to reaching a conclusion on the remaining point of objection raised on behalf of the respondent, I am satisfied that there is no reason under sections 21A, 22, 23 or 24 of the Act to refuse to order the surrender of the respondent, and I am further satisfied that the surrender of the respondent is not prohibited under any provision of Part 3 of the Act or the Framework Decision.

**Point of Objection**

6. Before setting out the point of objection in question, I will set out some relevant facts which form the background to the present application. As I have stated, the surrender of the respondent is sought so that he can be prosecuted for an offence of "escaping from lawful custody contrary to common law". According to the facts contained in the warrant, the respondent was sentenced to a period of 10 years imprisonment on the 29th April 2002 by the Royal Court of Justice of Jersey for an offence of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug, namely heroin.

7. It appears from the warrant that on the 18th August 2005 the respondent was sent by the Jersey authorities to a prison in Lincolnshire, England where he continued to serve the sentence imposed in Jersey. There are apparently arrangements in place between Jersey and the United Kingdom whereby persons convicted and sentenced in Jersey can serve that sentence in the United Kingdom.

8. It is stated in the warrant that the earliest date for his release at that stage was the 26th February 2008. Nine days following that transfer to what appears to have been an open prison in Lincolnshire, the respondent left that prison without authority to be absent, and on the 19th March 2006, the Lincolnshire police received information that he had been arrested in this jurisdiction where he was remanded in custody for an offence here.

9. It is further stated in the warrant that the respondent has "*at least 913 days left to serve in respect of the sentence imposed by the Royal Court of Jersey*". It is important in relation to the submission now made on behalf of the respondent to state that in the warrant it is stated: "*it is understood that the Attorney General's Office, Jersey intend to make a separate application under the provisions of Schedule 1 of the Crime (Sentences) Act 1997 for his transfer from England, should the defendant be returned to England pursuant to this warrant and upon the completion of any sentence he receives in England for the offence of escape from lawful custody*".

10. The warrant at paragraph (f) states:

*"United Kingdom law states that a person surrendered to the United Kingdom by Ireland shall not be surrendered to another Member State of the European Communities pursuant to a European arrest warrant in respect of an offence committed or alleged to have been committed before his surrender by Ireland to the United Kingdom save only where the Central Authority of Ireland gives its consent."*

11. The relevant provision of the United Kingdom Extradition Act 2003 (section 18) is set forth in the warrant. That section essentially provides that a person's extradition to another Member State of the European Union is barred by reason of his earlier extradition to the United Kingdom from a member state, unless the consent of the latter member state has been obtained. In other words, if an order for the respondent's surrender to the United Kingdom is made, the authorities in the United Kingdom must obtain the consent of the High Court here before they could surrender him on to another Member State for prosecution there in relation to a different offence.

12. Paragraph 8 of the warrant refers to a similar provision in relation to any onward surrender to what is referred to in the United Kingdom Act as a "Category 2 country", being a country other than a Member State of the European Union. In other words, following

a surrender of the respondent from this jurisdiction to the United Kingdom, the authorities there could not make an order for his onward surrender to such a Category 2 country without first obtaining the consent of the High Court here. That is the effect of these provisions.

13. Before addressing the concerns of the respondent in this regard, I should at this stage state that Jersey is not part of the United Kingdom, and neither is it a member state of the European Union. One would therefore think that Jersey must be a Category 2 country under the law of the United Kingdom, or, as we would refer to it here, a Part II country. If that were so, this court could be satisfied from the information contained in the warrant as to the law in the United Kingdom in this regard that no onward surrender of the respondent to Jersey, following his surrender from this jurisdiction, would take place without the consent of the High Court here being first obtained. In such circumstances, his surrender from this jurisdiction to the United Kingdom would not be prohibited, even though the intention to surrender him to Jersey was made known in the warrant.

14. However, in an affidavit sworn by Jason Elliott, a practising barrister and a member of the Inner Temple in London, it is explained that Jersey is not in fact a Category 2 country, as arrangements for extradition between Jersey and the United Kingdom are not effected under the provisions of the UK's Extradition Act 1983 in so far as they refer to Category 2 countries. The reason for this, according to the affidavit of Mr Elliott, is that by virtue of section 13 of the Indictable Offences Act 1848, a backing of warrants system operates still to secure the return of criminal defendants from England to Jersey. That system is similar to the backing of warrants procedure which, under Part 3 of the Extradition Act 1965 here, prior to its repeal by the European Arrest Warrant Act 2003, operated between this country and the United Kingdom.

15. It is submitted by Aileen Donnelly S. C. on behalf of the respondent that if the respondent is surrendered from this country to the United Kingdom, the authorities in the United Kingdom will be obliged in due course to surrender the respondent to the authorities in Jersey under the backing of warrants system if a warrant is received from the authorities in Jersey for that purpose, and that accordingly the safeguards to which the respondent is entitled under the Framework Decision, as given effect to by the extradition legislation in both here and the United Kingdom whereby the consent of the High Court here must first be obtained, will be denied to him and circumvented.

16. Ms Donnelly has submitted therefore that the provisions of section 24 of the European Arrest Warrant Act 2003, as amended, cannot be complied with in the present case and that therefore his surrender must be refused. Section 24 provides:

*"24. -- (1) the High Court shall refuse to surrender a person under this Act if it is satisfied that*

*(a) the law of the issuing state does not provide that a person who is surrendered to it pursuant to a European arrest warrant shall not be extradited to a third country without the consent of the High Court and the Minister first being obtained.*

*(b) the person will be extradited to a third country without such consent first being obtained.*

*(2) it shall be presumed that, in relation to a person to whom a European arrest warrant applies, the issuing state does not intend to extradite him or her to a third country, unless the contrary is proved.*

*(3) the issuing state may request, in writing, the High Court to consent to the extradition to a third country by the issuing state of a person surrendered to the issuing state under this Act.*

*(4) the High Court may give its consent to a request under subsection (3) if it is satisfied that*

*(a) where the person concerned in that state, and*

*(b) where a request for his or her extradition received in the State from the third country concerned,*

*his or her extradition pursuant to such a request would not be prohibited under the Extradition Act 1965 to 2001."*

17. In the view of all of these provisions, Ms Donnelly has submitted that, given the backing of warrants regime that exists in relation to extradition between the United Kingdom and Jersey, the presumption contained in section 24 (2) above is rebutted, and that this court must therefore refuse to order a surrender.

18. When this point was raised in the Points of Objection, the applicant filed an affidavit by David Auty, who is a solicitor working for the Crown Prosecution Service in the United Kingdom. He states that he was responsible for the drafting of the European arrest warrant in this case, and that it was he who, in good faith and following a conversation he had with a Senior Legal Adviser at the Attorney General's Office in Jersey, inserted a paragraph in the warrant which I have already set forth, and which stated that the attorney general's office in Jersey intended to make an application for the transfer of the respondent from England to Jersey upon completion of any sentence which he might receive in England for the offence of escaping from lawful custody.

19. I presume that the intention of Jersey seeking the respondent's onward surrender to Jersey would be so that the respondent would serve out the remainder of the sentence imposed upon him in Jersey in 2002. He requests that this court should ignore that paragraph as it is incorrect, and in paragraph 5 of his affidavit he states that *"the sole purpose of the European Arrest Warrant is to seek the return of the respondent for the purpose of prosecuting him for the offence of escaping from lawful custody"*. In other words, he is stating that there is no intention to surrender the respondent to Jersey, either in the event of an acquittal in respect of the offence referred to in the warrant of escaping from lawful custody, or at the conclusion of any sentence which may be imposed upon him if he is convicted.

20. That affidavit was sworn by Mr Auty on the 28th February 2007. In a further affidavit sworn by Mr Auty on the 11th June 2007 he states that following discussions with representatives of the Home Office and the National Offender Management Service, Ministry of Justice, he believes the position now to be that *"if the defendant is returned to the United Kingdom pursuant to the European Arrest Warrant dated 26th May 2006, he will be detained solely for the purpose of facing prosecution and any sentence that may follow for the offence of escaping from lawful custody"*.

21. He goes on to state that "any transfer to Jersey can only be for the offence of escaping from lawful custody and this can only be upon the application of the defendant under the provisions of the Crime (Sentences) Act 1997."

22. He states also that he has been asked to say within his affidavit that if a request for a transfer is received from the authorities in Jersey, such a request will not be proceeded with unless and until the consent of the Irish High Court has been obtained. He states also that since there is no legal mechanism in place to allow Jersey to make such an application, it is unnecessary for him to give such an assurance. Ms Donnelly submits that, given the backing of warrants system for extradition between the United Kingdom and Jersey under the legislation to which I have referred, this assurance cannot be taken at face value.

23. The applicant has provided a further affidavit by Melanie Cumberland, barrister at law in England, and she states that she has been requested by the Crown Prosecution Service to provide an opinion on the following two matters:

(1) In the event of that the respondent is extradited to the United Kingdom, if a request for a transfer is received from the authorities in Jersey, can an undertaking be given to ensure that such a request is not proceeded with unless and until the consent of the Irish High Court has been obtained?

(2) In the absence of such an undertaking, could the respondent simply be transferred to the Channel Islands under the backing of warrants procedure pursuant to section 13 of the Indictable Offences Act 1848?

24. She states that she has had sight of the warrant in this case as well as the affidavit of Jason Elliott, and the affidavits of David Auty to which I have referred, as well as various items of correspondence. She confirms that extradition from the United Kingdom to Jersey is governed by section 13 of the Indictable Offences Act 1848 and she sets out the provisions of that section in full. It describes the backing of warrants procedure and it is clear that it mirrors to a large degree the backing of warrants procedure to which I have already referred and which formerly existed between this country and the United Kingdom under Part 3 of the Extradition Act 1965. She states that this system is still in force as between the United Kingdom and Jersey. At paragraph 15 of her affidavit she states as follows:

*"The backing of warrants system as defined by section 13 of the Indictable Offences Act 1848 is still in force. If Mr Breen's transfer were requested from Jersey pursuant to this system, it would operate in the following way. The Court in Jersey would issue a warrant for Mr Breen's arrest pursuant to section 13 of the Indictable Offences Act 1848. The warrant would be sent by the police force in Jersey to the corresponding police force in England. If the English police force were satisfied that Mr Breen was likely to be found in England, the warrant would be placed before a Magistrates Court in England, and the Court would endorse or 'back' the warrant. Pursuant to this 'backed' warrant, Mr Breen would then be arrested. The police forces in England and Jersey would then make the necessary arrangements for Mr Breen's transfer to Jersey. The Crown Prosecution Service is not generally involved in this process. It follows that David Mark Auty correctly declined in his affidavit dated the 11th June 2007 to give such an undertaking."*

25. At paragraph 16 of her affidavit she states as follows:

*"If Mr Breen were returned to England pursuant to the EAW currently before the Irish Courts, unless he gave his consent, he could only be returned to Jersey pursuant to a backed warrant, issued and endorsed in compliance with section 13 of the Indictable Offences Act 1848. There appears to be no basis for the assertion made by Jason Elliott in his affidavit dated 22nd January 2007 that the European Arrest Warrant may have been issued in bad faith, not for the purpose of trying Mr Breen for the offence of escape, but rather to transfer him to Jersey to serve the remainder of his sentence for being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug."*

26. In answer to the first question upon which she was asked to advise, namely whether an undertaking could be given to ensure that such a request is not proceeded with unless and until the consent of the Irish High Court has been obtained, she states:

*"Under the Indictable Offences Act 1848 there is no express provision allowing for the provision of an undertaking by the requested territory that it will seek the consent of a third state before effecting a transfer pursuant to a backed warrant. The present case appears to be the first occasion on which such an issue has arisen and there is no precedent which assists."*

*However, on the information I have had the opportunity to consider, it appears that even though the procedures are in theory available to them, the Jersey authorities have taken the view that as a matter of law they are unable to request Mr Breen's return to Jersey either from Ireland under the 1989 Act or from England under section 13 of the Indictable Offences Act 1848 for the purpose of serving the remainder of the sentence of 913 days imposed to the offence of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug. This is a matter of Jersey law and I am not qualified to express a view as to whether in the circumstances of this case such a request would be possible."*

*If the Jersey authorities have formed a concluded view that they are unable to request Mr Breen's return to Jersey from either Ireland or England, an undertaking to the effect that they no longer seek his return and will not in future seek his return if he is extradited to England, may be sufficient to satisfy the Irish Court that Mr Breen will not be returned to Jersey upon his extradition to England and therefore the need for consent to be obtained would no longer arise."*

27. In answer to the second question upon which she was requested to advise, namely whether in the absence of such an undertaking that the respondent could simply be transferred to the Channel Islands under the backing of warrants procedure, she states as follows:

*"It appears that the Jersey authorities do not consider themselves able as a matter of law to make a request for the extradition or transfer of Mr Breen to Jersey either under the 1989 Act or under section 13 of the Indictable Offences Act 1848."*

*If the Jersey authorities were able to make such a request, Mr Breen would be returned to Jersey under the backing of warrants procedure pursuant to section 13 of the Indictable Offences Act 1848. This is in accordance with the law of Jersey and the United Kingdom."*

28. Ms Donnelly submits that these arguments make the position absolutely clear, and that the presumption to which I have referred

already has been rebutted.

29. It would appear that on the 17th August 2007 Mr Auty sent the affidavit of Melanie Cumberland to the Attorney General's Office in Jersey, because there is a letter dated the 17th August 2007 from the Attorney General in Jersey, and signed by him, in which he refers to having received that affidavit and the opinion contained therein. He states as follows:

*"It is clear as a matter of law that if Mr Breen is returned to the UK from Ireland, Jersey would not be able to seek Mr Breen's return to Jersey under the Crime (Sentences) Act 1997.*

*I disagree with Ms Cumberland's conclusion that Jersey could seek his return from the UK under the Indictable Offences Act 1848. An arrest warrant for backing by an English magistrate may only be issued by the Royal Court of Jersey where reasonable grounds exist to suspect that a person has committed an offence under the law of Jersey. By escaping from lawful custody in England Mr Breen has not committed an offence against Jersey law, but an offence against English law.*

*It follows that although an undertaking by me that Jersey will not seek Mr Breen's return from the UK is otiose as a matter of law, I am content to give it.*

*I formally undertake to the appropriate authorities of the Republic of Ireland that in the event that Michael John Breen is returned to the United Kingdom from Ireland, no request will be made by the authorities of Jersey for his return to this jurisdiction in respect of the outstanding term of that prison sentence from which he escaped in August 2005."*

30. That letter is assigned by the Attorney General of Jersey.

31. By letter dated 9th January 2008 the respondent's solicitors wrote to the Chief State Solicitor's Office asking them to confirm in advance of the hearing of this application that not only will no request be made by the authorities of Jersey for the respondent's return to that jurisdiction in respect of the outstanding term of a prison sentence from which he escaped in August 2005 (as per the undertaking given by the Attorney General of Jersey) but that the United Kingdom authorities will not reactivate the balance of that sentence if he is to be returned to the United Kingdom on foot of the European Arrest Warrant issued for the sole offence of escaping from lawful custody whilst detained in the United Kingdom. On the hearing of this application before me, Counsel on behalf of the applicant, Micheál P. O'Higgins BL confirmed that he was instructed to give those confirmations.

32. Ms Donnelly submits that the undertaking which has been provided by the Attorney General in Jersey is not contained in any sworn document and is not therefore evidence, and she has referred to the provisions of section 20 (3) of the Act which provides as follows:

*"(3) in proceedings under this Act, evidence as to any matter to which such proceedings relate may be given by affidavit or by a statement in writing that purports to have been sworn*

*(a) by the deponent in a place other than the State, and*

*(b) in the presence of a person duly authorised under the law of the place concerned to that test to the swearing of such a statement by a deponent, howsoever such a statement is described under the law of that place."*

33. In her submission, this provision requires that a matter such as the undertaking in this case which has been given by the Attorney General in Jersey must be contained in such a sworn document, and that this court should therefore ignore it on the basis that it is inadmissible as evidence. She also states that the letter from the Attorney General in Jersey is itself internally inconsistent in as much as it is unclear whether it is an undertaking that the respondent will not be charged with a Jersey offence, or whether it is an undertaking that his surrender will not be sought by Jersey so that he can serve out the remainder of the sentence imposed upon him in Jersey in 2002.

34. In reply to this submission, Mr O'Higgins submits that while the undertaking in question is not "evidence" it is a document nevertheless which is provided to the court and is 'in the case', and in this regard, he has referred to the provisions of section 12 (2) of the Act which provides:

*"(2) such undertakings as are required to be given under this Act shall be transmitted by, or on behalf of, the issuing judicial authority or the issuing state as may be appropriate to the Central Authority in the State.....".*

35. Mr O'Higgins has referred also to the provisions of section 12 (3A) of the Act which provides:

*"(3A) an undertaking required under this Act may be set out in the European arrest warrant or in a separate document."*

36. Mr Higgins submits that the undertaking in question does not require to be exhibited in an affidavit in order to be accepted by this court. He submits that this court is entitled to accept this undertaking given the nature of the document, being what he describes as a promise by one state to another. He submits in any event that if for any reason the undertaking is not honoured in the future, the respondent would be entitled to apply for his release following arrest, given the contents of the undertaking which has been given. But he submits that this court is entitled to presume that any such an undertaking will not be breached.

37. By way of response, it was submitted on behalf of the respondent that, given the nature of the backed warrants system where a person can simply be arrested on foot of the backed warrant and removed from the United Kingdom to Jersey without ever being brought before a court, the opportunity for the respondent to apply for an order of habeas corpus or other order for his release does not exist for him. It is submitted that upon arrest on foot of such a backed warrant, the respondent would simply be removed from the jurisdiction of the United Kingdom upon arrest.

38. Mr O'Higgins has submitted that given all the information which is available to this court on this application through the affidavits of Mr Auty and the undertaking from the Attorney General in Jersey, the issue being raised by the respondent in relation to his possible surrender to Jersey after he has been dealt with in respect of the offence of escaping from lawful custody in the United Kingdom is something of a 'red herring'. He submits that the position now is very clear that the warrant seeks his surrender for the purpose only of being prosecuted for that offence, since Mr Auty has stated in his affidavit that the paragraph contained in the warrant, stating that Jersey intended to apply for his transfer from England to Jersey following completion of any sentence which he might receive in England for the offence of escaping from lawful custody, was inserted in error. He submits that the difficulty identified by the respondent as a result of the insertion of that paragraph in the warrant has arisen only because of its erroneous

insertion in the warrant, and that it is clear now, in view of the assurances given by the issuing judicial authority and the Attorney General in Jersey, that the only thing which will happen to the respondent upon surrender is that he will face a prosecution for the offence referred to in the warrant, and that there is no question now but that the respondent will not be required to serve the balance of the Jersey sentence either in the United Kingdom or in Jersey.

39. In relation to the concern raised by the respondent that the authorities in Jersey might not observe the undertaking contained in the letter from the Attorney General in Jersey, and that they might in fact issue a warrant for backing under the backing of warrants procedure, Mr O'Higgins submits that it is now clear that were it to happen at all, such a warrant could be issued in Jersey only in respect of a new Jersey offence, and as stated by the Attorney General in Jersey, the respondent has not committed any new offence against Jersey law, but rather an offence against English law for which his surrender is currently sought. In such circumstances, it is not possible that a warrant would be issued in Jersey for any new Jersey offence, and therefore there is no possibility that such a warrant would be sent to the authorities in the United Kingdom in order to be backed for the purpose of arresting the respondent and surrendering him to Jersey. Such a warrant could not be issued for the purpose of obtaining the respondent's return so that he can serve out the remainder of his sentence in Jersey. Mr O'Higgins therefore submits that there is no reality to the respondent's concerns in this regard, but in so far as he has these concerns, the undertaking which has been provided must be seen as sufficient reassurance and guarantee against such an event occurring at all.

### **Conclusions**

40. First of all, this Court must accept the assurance given on behalf of the issuing judicial authority in the United Kingdom that the reference in the warrant to an application by the Jersey Attorney General in due course for the transfer of the respondent back to Jersey should he be surrendered to the United Kingdom, was something which was inserted by reason of the error described by Mr Auty in paragraph 3 of his affidavit sworn on the 25th February 2007.

41. It is clear in my view that the existence of that paragraph in the warrant was such as to rebut the presumption contained in s. 24(2) of the Act, and if it had not been withdrawn in the manner in which it has been, the applicant may well have been in some difficulty in satisfying this Court that the law in the United Kingdom was such that the provisions of s. 24(1) of the Act could have been complied with, given the unique arrangements in existence between Jersey and the United Kingdom under the 1848 Act already referred to as the 'backing of warrants'. There may well have been no provision which enabled the consent of the High Court to have been sought and obtained, given the fact that upon receipt of a warrant from Jersey the warrant would simply be backed and thereafter the respondent would simply be arrested and sent back to Jersey on foot of same.

42. But the affidavits which have been filed, and the exhibits which have been included therein have now made the position so clear that the presumption has been reinstated. This Court can be in no doubt, given the reliance which it must place on what it is told by another judicial authority, or on its behalf, that this respondent is being sought solely for the purpose of facing prosecution for the offence of escaping from lawful custody, and not for the purpose of either being sent back to Jersey or even for the purpose of serving out the balance of 913 days remaining outstanding in relation to the Jersey sentence. Ms. Donnelly has sought to rely on the existence of the backing of warrants arrangements between Jersey and the United Kingdom, but I am satisfied that those arrangements cannot come into play in relation to the outstanding sentence, and that if a warrant was to be sent by Jersey it could only be issued and sent over in respect of a new Jersey offence, and since the respondent has not been in Jersey since he was transferred to England to serve the Jersey sentence, that is not a possibility.

43. Ms. Donnelly has made a point also that the undertaking which has been given by the Attorney General in Jersey cannot be regarded as admissible as evidence given that it has not been sworn to in any affidavit as, in her submission, is required under s. 20(3) of the Act. It is unnecessary for me to decide that issue in this case since I am of the view that such an undertaking is unnecessary for the reasons appearing. The Attorney General in Jersey has himself made the point that such an undertaking is otiose for the reasons given by him in the letter, and I agree with him.

44. In my view, the presumption contained in s. 24(2) of the Act has not, in the light of all the facts now available to this Court been rebutted, and s. 24 therefore presents no reason why the surrender of the respondent must be refused.

45. For completion I should also state that the respondent raised a point of objection that he was not a United Kingdom prisoner, but rather a Jersey prisoner, and that as such he could not be the subject of a European arrest warrant since Jersey is a 'third country' and not a EU Member State. It is unnecessary to dwell on that objection. The respondent has averred in an affidavit that a different prison regime exists in UK prisons for Jersey prisoners and that he is recognised to be a Jersey prisoner while there. This fact is not one which has been shown in any way to prevent the UK authorities from prosecuting the respondent for his escape from lawful custody in the United Kingdom, and in my view that is an end to that point of objection.

46. I am satisfied for all of these reasons that the Court is required to make the order sought for the surrender of the respondent to the issuing state, and I will so order.