

Mark Smith

YEAR OF CALL: 2012



Mark Smith practises in the areas of crime, extradition, civil and family law.

Overview

Mark is a barrister specialising in crime, extradition, family and civil work. He appears regularly in the High Court (Admin) in relation to extradition appeals, as well as in criminal matters in the Crown Court for both the prosecution and defence. He also has experience in proceeds of crime and prison proceedings.

Mark accepts instructions in private family and care proceedings, as well as applications for non-molestation orders. He also has experience of financial remedy proceedings, including FDR and final hearings.

Mark accepts instructions in a wide range of civil proceedings, including immigration, property, personal injury and general contract matters. Recently, he represented the claimant in a successful loan dispute, and provided written advice to a local authority regarding the use of warrants under the Housing Act 2004.

Additional Information

Direct Public Access

Mark accepts Direct Public Access instructions.

Professional Panels

CPS appointed prosecutor (Grade 1).

Appointed panel member for the General Dental Council (GDC).

Education

BPP Law School, BPTC.

Oxford Brookes University, GDL.

University of Oxford, MPhysPhil (Physics and Philosophy).

Awards

Walter Wigglesworth Pupillage Scholarship (2013).

Kennedy Scholarship (2011).

Hardwicke Entrance Award (2011).

Professional Memberships

The Honourable Society of Lincoln's Inn.

Criminal Bar Association.

Defence Extradition Lawyers' Forum.

Asset Recovery, Civil Fraud & Confiscation

Mark is instructed in proceedings under the Proceeds of Crime Act 2002 and Customs and Excise Management Act 1979, including confiscation, condemnation, cash forfeiture and enforcement hearings.

Recent cases include the forfeiture of £25,000 high-quality French wine, condemnation of 11,500kg of poppy heads, and confiscation proceedings arising from a multi-million pound offshore investment scam.

Business Crime

Mark has experience of FCA matters from a secondment as a legal adviser to the Credit Authorisations Division at the FCA. This specialist knowledge feeds into Mark's business crime practice, and his experience of theft and fraud instructions in the criminal context.

Crime

Mark has appeared in the Crown Court in relation to offences including rape, GBH, and drugs offences. He has also appeared in the Magistrates' Court for cases involving offences such as firearms and sexual assault.

Recently, Mark was instructed in a multi-handed, five-year conspiracy to commit criminal damage, heard at Blackfriars Crown Court.

Extradition & International

Mark regularly appears in extradition proceedings at Westminster Magistrates' Court, as well as conducting hearings in the High Court on appeal.

He is currently instructed in a German request for 10 British citizens allegedly involved in a £64 million VAT carousel fraud committing across a number of EU countries.

Family, Children & International Family

Mark accepts instructions in relation to family, children and international family matters.

Recently, he has appeared in an application for a freezing injunction in the High Court, and in financial remedy proceedings dealing with exceptional misconduct, as well as providing written advice about the legal obligations under an injunction in a sensitive family situation.

Personal Injury & Professional Negligence

Mark appears in the County Court in cases contesting liability for road traffic claims, as well as Stage 3 hearings for personal injury claims commenced under the RTA Protocol.

Planning, Property, Landlord & Tenant

Mark accepts instructions in housing and landlord and tenant matters, including possession claims following notices under section 8 and section 21 of the Housing Act 1988. Recently, he acted for tenants at trial regarding the landlord's failure to make repairs, securing a 50% reimbursement in rent for the duration of the tenancy.

Cases of Note

K v Germany [2017]

Permission granted on the papers and due to be heard in a two-day hearing before the Divisional Court, including section 2 grounds regarding an accusation warrant for an

international carousel fraud.

Norkowski v Poland [2017] EWHC 833 (Admin)

Mark appealed to the High Court against extradition for offences of fraud, challenging the decision in Zengota that multiple EAWs can be considered as a whole when considering the passage of time bar to extradition.

Dudkiewicz v Poland [2017] EWHC 2171 (Admin)

Mark successfully appealed to the High Court against extradition for offences for possession of ammunition on the basis of Article 8 due to the short period of time remaining to be served following Chmura and Jesionowski.

Krawiec v Poland [2017] EWHC 577 (Admin)

Mark appeared in the High Court, arguing on appeal that of extradition to stand trial for fraudulently obtaining credit for a computer purchase in 2007 would be disproportionate under section 21A of the Extradition Act.

Grazulis v Lithuania [2015] EWHC 707 (Admin)

Mark appeared in the High Court, which considered whether evidence in the European Arrest Warrant that the requested person's sentence would be unenforceable amounted to a bar to extradition.

B v Romania [2017]

Permission granted on the papers under section 2 to be considered by the Divisional Court regarding the effect of Alexander on the decision in Echimov as to the use of further information to provide missing particulars.

C v Poland [2017]

Successful renewal application in the High Court on Article 8 grounds including the admission of fresh evidence regarding the support available from distant family members.

B v Poland [2017]

Mark successfully made a renewed application for permission under Article 8 for a young man wanted for supply of cannabis where the District Judge made a number of material errors in his ruling.

N v Poland [2017]

Permission granted to appeal on the basis of the limited time remaining to be served for dishonesty offences, for which Requested Person was subsequently discharged.

R v Poland [2017]

Mark drafted grounds of appeal under Article 8 where Poland sought the primary carer for children aged 6 and 2. The EAW was subsequently withdrawn and the Requested Person discharged.

A v Italy [2017]

Mark resisted an accusation warrant for 16-year-old wanted for trial on sexual offences on the grounds of Article 8 and section 12A (absence of a prosecution decision), considering Doci on the basis of evidence from an Italian lawyer.

K v Poland [2017]

An application for permission under section 14 (passage of time) and Article 8 in which the court agreed that the District Judge was wrong to find the Requested Person was a fugitive.

H v Czech Republic [2017]

Mark applied for permission regarding a warrant for a reformed kleptomaniac with two young children, whose sentence was activated due to non-payment of child maintenance, including a challenge to the decision Ciureja about the relevance of the activating offence.

H v Poland [2017]

Mark advised on appeal regarding Article 8 in an unusual situation where the Requested Person's partner had a miscarriage whilst returning from court due to the stress of extradition proceedings, and a Zakrzewski-type abuse of process argument due to errors in the EAW.

S v Hungary [2017]

Mark advised on appeal on numerous grounds, including section 2 in the context of a conspiracy, considering *Islam v Cyprus* as well as *Pelka* and *Bronowski*.

L v Latvia [2017]

Mark drafted grounds of appeal in a pre-PA v Portugal case addressing the interaction between family and extradition proceedings, the District Judge having refused to adjourn until the domestic care proceedings had concluded.

A v France [2017]

Mark drafted grounds of appeal in a child trafficking case where the role of the Requested Person was insufficiently particularised, with reference to *King v France*.

Balewski v Poland [2016] EWHC 1639 (Admin)

Mark successfully appealed to the High Court, arguing that it would be oppressive to extradite the Requested Person to Poland for offences in 1999 due to the passage of time, under section 14 of the Extradition Act 2003.

H v Poland [2017]

Mark advised on the merits of appeal under Article 8 of the ECHR in a case involving offences including insurance fraud and robbery.

M v Poland [2017]

Mark advised on appeal in relation to Article 3 and 8 of the ECHR in a case involving a conviction warrant for a GBH offence.

R v France [2017]

Mark provided advice to a UK prisoner on his speciality rights following extradition from France for sexual offences.

O v SSHD [2017]

Mark successfully resisted a Home Office appeal in the Upper Tribunal, having previously overturned a deportation order in the First-Tier Tribunal, arguing that there were no serious

grounds to deport despite his conviction for theft and money laundering in 2013.

Y v France [2016]

An application for permission out of time regarding a conviction warrant for drug trafficking from Brazil on Article 8 grounds, requiring the involvement of social services as the Requested Person's two children had uncertain housing and care arrangements in their mother's absence.

T v Latvia [2016]

Mark appeared in an application for permission in relation to offences of drug trafficking, burglary and assault, including grounds under section 2 and section 12A of the Extradition Act 2003.

Brazuks v Latvia [2014] and Florea v Romania (No. 1) [2014]

During pupillage, Mark worked on the leading cases challenging extradition under Article 3 of the European Convention on Human Rights due to overcrowding in prisons in Latvia and Romania.