



Scottish Couple to Challenge US Extradition in Supreme Court

McNabb Associates, P.C. (U.S. Extradition Attorneys)

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Brian and Kerry Ann Howes, from Bo'ness, near Falkirk, are said to have sold legal chemicals which were then used to make illegal drugs in the US.

The pair maintain they ran a legitimate business.

The Court of Criminal Appeal in Edinburgh granted them leave to take their human rights challenge to London.

Defence counsel Chris Shead, for Mrs Howes, told Lord Mackay, sitting with Lord Bonomy and Lord Osborne, that an English case involving parents facing extradition had already been referred to the Supreme Court.

He said that the Howes' case was an "anxious" one and added: "Her health is under significant pressure while in custody."

Arizona trial

Lord Mackay said the judges would allow leave to appeal on issues relating to Article 8 of the European Convention on Human Rights, governing the right to family life, which had arisen during the Scottish proceedings.

The couple were arrested by Central Scotland Police in 2007, amid claims they supplied more than 40 chemicals to dealers via the online company Lab Chemicals International.

They lost a bid to prevent them being sent to Arizona to face trial at the Court of Criminal Appeal in Edinburgh last month.

The charges against Mr and Mrs Howes allege they used their internet company to supply red phosphorous and iodine to 400 customers in the US, most of whom

were producing methamphetamine, also known as crystal meth.

Red phosphorous and iodine are legal in Britain, but regulated in the US.

The case falls under the 2003 Extradition Act which allows the extradition of people to the US without any trial taking place in the UK, removing the need for US authorities to provide prima facie evidence of criminality.

An extradition order was made by the Scottish government on 29 May 2008.

Mr and Mrs Howes face being separated from their children if they are extradited to the US.

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To find additional global criminal news, please read [The Global Criminal Defense Daily](#).

Douglas McNabb and other members of the U.S. law firm practice and write extensively on matters involving Federal Criminal Defense, INTERPOL Red Notice Removal, International Extradition and OFAC SDN List Removal.

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Extradition Recommended for Dewani to face Murder

Charges in South Africa

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Submitted at 9:55 AM August 12, 2011

South African National police commissioner General Bheki Cele was let off the hook for his widely criticised "monkey" faux pas when a senior British district court recommended that Shrien Dewani be extradited to South Africa to face trial for the murder of his bride in Cape Town.

South Africans and foreign media following the case were outraged when Cele blundered by making startling public comments about Dewani in December last year, a month after his wife, Anni, was murdered in an apparent hijacking.

"A monkey came all the way from London to have his wife murdered here," said Cele at the time. "Shrien thought we South Africans were stupid when he came all the way to kill his wife in our country. He lied to himself."

Four months later Cele apologized for his comments, but it was too late because worldwide condemnation had already gone viral.

Addressing the Dulwich Crown Court in southeast London, Judge Howard Riddle diligently spent two hours reading his 52-page judgment. A complaint had been laid by the defense about Cele's comments and Riddle said he had had to consider it in the extradition hearing. Fortunately for Cele's political career, the white-haired judge believed the police

commissioner's comments were unlikely to affect a trial.

Even if it came to the attention of the trial court that Cele had described the British national as a monkey, it would not make a court likely to convict him, said Riddle.

"If a senior police officer, with full understanding of the evidence in the case, publicly describes Mr Dewani as a monkey in circumstances that assume the proposed defendant is guilty, that is not capable of amounting to an abuse of the process of court," he said.

Riddle pointed out that it was no surprise to a court to learn that a police officer believed a defendant to be guilty.

"Such a belief carries no weight for the prosecution. In some circumstances, one can imagine it carrying weight for the defense, particularly if the officer is a key witness in the case or collected the evidence."

Similarly, offensive comments by a police officer were more likely to harm than help the prosecution, he said.

"In South Africa, any trial of these allegations will be heard by a judge, almost certainly sitting with five assessors. The assessors themselves may well be experienced in the law. It is common ground that South Africa provides a fair trial process. There is nothing in this complaint."

The relief when Riddle finished reading his judgment and announced that he was going to recommend to the British home secretary that Dewani should be extradited to South Africa was visible in the face of Vinod Hindocha, Anni's broken father, who had battled to hide his emotions following the death of his daughter.

For the past six months he had stopped working and flew around the world to ensure justice was done. Hindocha attended the various sittings of the extradition

hearing in London and came to South Africa for the court appearance of taxi driver Zola Tongo, who admitted guilt, entered into a plea bargain and was sentenced to 18 years' imprisonment for his complicity in the brutal murder.

Whenever he could, 61-year-old Hindocha has also attended the continuing court appearances in Cape Town of murder accused Mziwamadoda Qwabe and Xolile Mngeni. The court was told last week that Mngeni had developed a brain tumour and could be unfit to stand trial.

"Nothing about this case has been normal," said Hindocha's brother, Ashok, by phone from Sweden the night before the hearing, which he was unable to attend. "My brother is suffering so much. Neither of us have worked since Anni died in such a horrific way. I need to ... start working again."

Anni's father looked as though he had had a giant boulder removed from his chest after the extradition hearing.

"This is a step forward for us. All I want is justice for my beautiful daughter," he told the media contingent waiting outside the court.

"I wish Shrien a speedy recovery. He can now stand trial and prove his innocence. We are not saying he is guilty, but we need to know who did these terrible things to Anni."

It had been a tension-filled day for the Hindocha family as well as the Dewanis. The two families have been estranged since Dewani was named a suspect in the murder investigation and have not been on speaking terms, but they could not help bumping into each other in the court building.

Dewani arrived to hear the judgment and had to undergo security clearance as his former father-in-law and his own family stood in front of him. Wearing a grey T-shirt and black pants, he

smiled grimly at the security guards as they frisked him.

This week the case took a back seat to the rioting and looting by violent gangs in London and other cities since last Saturday.

Around the corner from the court, buildings in the Woolwich high street were still burning after a rampage by youths complaining about the lack of opportunity and jobs in the country. Belmarsh Prison, situated next to the court, was brimming with "hoodies" arrested for looting and violence.

But once the doors to the courtroom were shut and Dewani stepped into the glass-enclosed dock, South Africa joined him on trial at the extradition hearing:

Riddle recapped the evidence about prison conditions in South Africa, particularly Goodwood, Malmesbury A and Brandvlei, which had been named as possible custodial facilities for Dewani in the Western Cape. He said there were 239 prisons in the country with a designated capacity of 118 158 inmates. On March 31 last year there were 164 793 prisoners: just less than a third were on remand and the balance were sentenced offenders. "The prison population has fallen slightly over recent years, but the system remains seriously overcrowded," he said.

The judge described Dewani as "good-looking, youthful and physically well preserved". "There has been a suggestion that he might be gay," he said. Some witnesses had said that even if he stayed in a single cell, he would still be vulnerable to attack. But despite the obvious problems with the prison system, Riddle said he was impressed by the evidence given by Judge Deon van Zyl, the inspecting judge in the judicial inspectorate of correctional services in South Africa.

Van Zyl had said that Dewani would have no difficulty in making special arrangements for private healthcare and access to

psychiatrists and psychologists. If extradited, Dewani would make an early appearance before the courts, he had testified. He had also been confident that there would be no sexual violence. The state had assured the court he would be kept in a single and not a communal cell, where most sexual violence occurred.

The doctors treating Dewani have agreed that he is unfit to plead yet. His doctor is treating him at the Fromside Clinic in Bristol for a depressive illness and post-traumatic stress disorder, and Dewani is checked every 15 minutes by staff.

"The current risk of self-harm or suicide is real and significant," said Riddle. He noted that Dewani had "no history of mental health before December" and said there was "no evidence of psychosis at the moment". Valkenberg Hospital in Cape Town came under fire as a result of a newspaper report that had highlighted its appalling conditions, but nobody involved in the case had had a personal experience with the hospital.

On February 20 this year, Dewani was admitted to hospital, having taken an overdose. "There has been the slightest of suggestions -- more a hint, really -- that Mr Dewani took medication knowing that it would not kill him, but intending it to look like a suicide attempt," said Riddle. He accepted the conclusion of one expert witness that this was a deliberate attempt to avoid engaging with the extradition proceedings.

Riddle said that although Dewani had not undertaken the so-called "malingering test", the experts had all considered whether he was faking his illnesses. On the evidence before him, he said, he was satisfied that the illnesses and the symptoms were genuine.

'It is a positive step'

Ami Denborg and her father, Vinod Hindocha, cried this week after hearing that a British judge

had recommended that Shrien Dewani be extradited to face trial for the murder of his wife, Anni.

Denborg bears a striking resemblance to her sister, but in the last nine months her weight has plummeted by 10kg as she battled, like the rest of the family, to cope with the tragedy.

She said it was hard to accept the fate that had befallen her "beautiful, innocent sister".

"My days begin with me reading all the British and South African newspapers to get up to date on the case. I have two kids and I need to focus on them, but I battle. I have to do this now. We were so close.

"This [court decision] is a step forward for us, at least. There could be delays and appeals against Shrien being extradited, but it is a positive step. Anni will not rest in peace until she gets justice."

This article was published by Mail & Guardian on August 12, 2011.

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