IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CRI-2016-404-225
[2016] NZHC 2446

BETWEEN	ALAN ROSS KEENAN Appellant
AND	THE UNITED KINGDOM Respondent

Hearing: 21 September 2016

Appearances: CB Wilkinson-Smith for Appellant
M Harborow and F Culliney for Respondent

Judgment: 14 October 2016

JUDGMENT OF TOOGOOD J

This judgment was delivered by me on 14 October 2016 at 11.30 am
Pursuant to Rule 11.5 High Court Rules

Registrar/Deputy Registrar

Introduction

[1] On 19 April 2002, Alan Ross Keenan (also known as Alan Mackenzie MacDonald)[1] was arrested in the United Kingdom on five charges of indecent assault on a girl and two charges of gross indecency with a female. The offending was alleged to have occurred between August 1999 and March 2002 when the complainant was aged between seven and ten. At least one of the charges was based on allegations of conduct which, in New Zealand, would amount to sexual violation.

[2] On 3 March 2003, having entered pleas of not guilty, Mr Keenan was directed to appear in the Salisbury Crown Court on 12 May 2003 for trial and was granted bail to that date. On 27 April 2003, however, Mr Keenan travelled to New Zealand and failed to appear at the start of his trial. A warrant for his arrest was issued.

[3] In August 2003, the UK authorities received confirmation that Mr Keenan had entered New Zealand and extradition proceedings were commenced by the United Kingdom Home Office in June 2004. By that time, the UK authorities had apparently mislaid the original warrant so that the extradition request received in New Zealand was incomplete. There were lengthy bureaucratic delays between July 2004 and October 2011. Twice, New Zealand's Ministry of Foreign Affairs and Trade sought revised extradition requests which would meet New Zealand requirements.

[4] On 6 June 2014, a Crown Court Judge issued a new warrant for the arrest of Mr Keenan for failing to surrender himself to the custody of the Crown Court in May 2012 as required. On 8 July 2014, the Judge endorsed the warrant to confirm that it related to the charges set out in the indictment (No. T20020042) and also to a separate offence of failing to surrender to his bail. A third extradition request, based on the new warrant, was sent to New Zealand by the UK Home Office in February 2015; the original of the new warrant was not sent to New Zealand until June 2015.

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[1] Mr Keenan lawfully changed his name in July 2013, and currently holds a New Zealand passport in the name "Alan Mackenzie MacDonald". He was charged in the United Kingdom, and named in the extradition papers and this proceeding, as "Alan Ross Keenan". For consistency and convenience, he will be referred to as "Mr Keenan" throughout this judgment.

In August 2015, the Auckland Crown Solicitor was instructed by the United Kingdom to commence the extradition process set out in Part 4 of the Extradition Act 1999.

[5] On 7 October 2015, under the Part 4 procedure, the new UK warrant was endorsed in New Zealand by District Court Judge Fitzgerald. The Judge was apparently satisfied, under s 41 of the Act, that Mr Keenan was in New Zealand and that there were reasonable grounds to believe that he was an extraditable person in relation to the UK, and that the offences for which his arrest was sought were extradition offences. Mr Keenan was arrested in Auckland on 2 November 2015.

[6] On 8 July 2016, in a reserved decision delivered after a two-day hearing, Judge AE Kiernan determined that: [2]

(a) a warrant for Mr Keenan's arrest, endorsed under s 41(1) of the Act, had been produced;

(b) Mr Keenan was an extraditable person in relation to the extradition country (the United Kingdom);

(c) the alleged offences are extradition offences in relation to the extradition country;

(d) Mr Keenan had failed to satisfy her that any discretionary restriction on his surrender under s 8 of the Act applied; and that

(e) Mr Keenan was eligible for surrender in respect of all of the offences for which surrender was sought.

[7] Accordingly, the Judge issued a warrant for Mr Keenan's detention pending surrender to the United Kingdom. The warrant was not to be executed for 15 days during which time Mr Keenan had the right to make a habeas corpus application or

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2 *The United Kingdom of Great Britain and Northern Ireland v Keenan* [2016] NZDC 12535 at [148].

to lodge an appeal under the Act. The Judge also made a surrender order under s47(1) of the Act.[3]

[8] Mr Keenan has exercised his right of appeal to this Court, under Part 8 of the Act, on questions of law only.[4]

The grounds of appeal

[9] Essentially, the grounds relied upon by Mr Wilkinson-Smith in support of Mr Keenan's appeal are these:

(a) The new UK warrant endorsed by Judge FitzGerald and relied upon by the United Kingdom in the extradition proceeding is not a valid warrant in that:

(i) it was not sealed so as to verify it as a judicial warrant; and

(ii) even if it is valid on its face, the warrant was a second warrant issued following Mr Keenan's failure to surrender to bail and the applicable law does not allow the issuing of successive warrants.

(b) The District Court Judge erred in accepting the evidence as sufficiently proving the issuing of a valid warrant.

(c) The District Court Judge erred, in considering Mr Keenan's claim for a discretionary restriction on his surrender under s 8(1)(c) of the Act, by misdirecting herself to consider the delay in pursuing or advancing the extradition application, rather than the period of time that had passed since the offending was alleged to have been committed.

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3 At [149] and [150].
4 Extradition Act 1999, s 68(1) and (2).

The background facts

[10] The material facts are not in dispute. Given that, and the technical grounds advanced by Mr Wilkinson-Smith concerning the validity of the warrant and the limited focus of the challenge to the substantive reasoning of Judge Kiernan, focusing on the question of delay, it is unnecessary to describe the background facts or the District Court Judge's reasoning in any detail. It is sufficient, so far as the factual background is concerned, to set out an abridged version of the detailed chronology included by the District Court Judge at [12] of her judgment.

Overview	**Date**	**Event**
Alleged offending	August 1999 - March 2002	Alleged offending occurs in UK
Charge and arrest	19 April 2002	Mr Keenan is arrested on 19 April 2002. He denies the alleged offending
	27 June 2002	Mr Keenan is released on bail
	3 March 2003	Mr Keenan enters not guilty plea. He is bailed to stand trial on 12 May 2003
Departure from UK	27 April 2003	Mr Keenan travels to NZ
First UK warrant issued (Judge Wade)	12 May 2003	Mr Keenan fails to appear for UK trial. First UK warrant to arrest issued
	13-15 August 2003	Interpol London seek and receive confirmation from Interpol Wellington that Mr Keenan has entered NZ.
First (incomplete) extradition request	23 June 2004	First (incomplete) extradition request sent from UK Home Office
	15 July 2004	First (incomplete) extradition request is received at NZ Police ("NZP") from NZ Ministry of Foreign Affairs ("NZ MFAT")
Second (incomplete) extradition request	27 May 2005	UK Home Office sends second (incomplete) extradition request via diplomatic channels to the British High Commission
	2006	Mr Keenan applies for New Zealand citizenship
	6 March 2007	Mr Keenan granted NZ citizenship

Overview	Date	Event
	23 March 2007	Mr Keenan obtains a NZ passport under the name 'Alan Ross Keenan'
	September 2007 – June 2011	UK authorities make inquiries about progress of the extradition from NZ, including email exchanges with the British High Commission in New Zealand and NZ MFAT
	1 September 2011	Mr Keenan renews his NZ passport under the name 'Alan Ross Keenan'
	20 September 2011	NZ MFAT emails UK Home Office Extradition Section attaching feedback from Police on the 2005 (incomplete) request.
Preparation for third (finalised) extradition request	4 October 2011	NZ MFAT request a revised extradition request from UK
	October 2011	UK Crown Prosecution Service and Wiltshire Police communicate and agree to reconfirm "full code test" for prosecution is met and whether witnesses are still available.
	2012	CPS seek further information from Officer in the Case and advise CPS Extradition Unit that still intend to seek extradition
	27 July 2013	Mr Keenan changes his name to 'Alan Mackenie MacDonald'
	14 August 2013	Mr Keenan obtains a passport under the name 'Alan Mackenzie MacDonald'
	2013	Mr Keenan travels on NZ passport in name of 'Alan Mackenzie MacDonald' to Ireland via plane, and then to UK via ferry, to visit his mother
	2014	UK Counsel instructs Extradition Unit to draft request. Communication direct with NZP by email and telephone
	6 June and 8 July 2014	Crown Court Judge Cutler issues a warrant requiring Mr Keenan to surrender himself into custody
	12 December 2014	Detective Inspector Jeremy Carter swears his affidavit in support of the application to extradite Mr Keenan

Overview	Date	Event
Third (finalised) extradition request	February 2015	UK Home Office send third extradition request to NZ which arrives in INTERPOL Wellington (without original UK warrant)
	9 June 2015	Original UK warrant sent to NZ
Endorsement of UK warrant to arrest	Mid 2015	Enquiries made by INTERPOL Wellington to confirm Mr Keenan's location within NZ
	21 August 2015	File referred to Auckland Crown Solicitor via Auckland District Police staff for UK warrant to be endorsed
	7 October 2015	UK warrant endorsed in New Zealand by Judge Fitzgerald
Arrest in NZ	2 November 2015	After receiving messages from the NZP, Mr Keenan presents himself at Auckland Central Police Station and is arrested

[11] Counsel do not dispute that Judge Kiernan accurately recorded the relevant statutory provisions in her judgment, in terms which I adopt:[5]

> **Extradition Act 1999**
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> [13] Extradition to the UK is governed by the Extradition Act 1999 and by virtue of the Extradition (United Kingdom and Pitcairn Islands) Order 2003, the UK is a "designated" country. Therefore the extradition process set out in Part 4 of the Act applies.
>
> [14] The process in Part 4 to be followed requires, firstly, endorsement of the warrant issued in the extradition country, in this case the UK. A Judge may endorse the UK warrant if satisfied that, according to s 41 of the statute:
>
> (a) The person is, or is suspected of being, in New Zealand or on his or her way to New Zealand; and
>
> (b) There are reasonable grounds to believe that –
>
> (i) The person is an extraditable person in relation to the extradition country; and
>
> (ii) The offence for which the arrest of the person is sought is an extradition offence.

5 *The United Kingdom of Great Britain and Northern Ireland v Keenan*, above n2.

[15] Once the warrant is endorsed police can arrest the person named in the warrant and they must then be brought before the Court as soon as possible (s 44).

[16] When the extraditable person is brought before the Court, the Court must determine whether the person is eligible for surrender to the country seeking extradition. The procedure is set out in s 45(2). A person is eligible for surrender if:

> (a) A warrant for the address of the person described in s 41(1) and endorsed under that section has been produced to the Court; and
>
> (b) The Court is satisfied that –
>
> (ii) The person is an extraditable person in relation to the extradition country; and
>
> (ii) The offence is an extradition offence in relation to the extradition country.

[17] However, a person is not eligible for surrender if they satisfy the Court in accordance with s 45(3) that a mandatory restriction on surrender applies under s 7 of the Act, or the surrender would not be in accordance with the provisions of any treaty between New Zealand and the extradition country.

[18] Mandatory restrictions as set out in s 7 are not relevant in this case and not advanced.

[19] A Court may also decide that a person is not eligible for surrender because of s 45(4):

> The Court may determine that the person is not eligible for surrender if the person satisfies the Court that a discretionary restriction on the surrender of the person applies under s 8.

[20] Section 8(1) is relevant and provides:

> (1) A discretionary restriction on surrender exists if, because of—
>
> (a) the trivial nature of the case; or
>
> (b) if the person is accused of an offence, the fact that the accusation against the person was not made in good faith in the interests of justice; or
>
> (c) the amount of time that has passed since the offence is alleged to have been committed or was committed,—
>
> and having regard to all the circumstances of the case, it would be unjust or oppressive to surrender the person.

[21] Finally, s 45(5) provides:

> (5) In the proceedings under this section,—
>
> (a) the person to whom the proceedings relate is not entitled to adduce, and the court is not entitled to receive, evidence to contradict an allegation that the person has engaged in conduct that constitutes the offence for which surrender is sought; and
>
> (b) nothing in this section requires evidence to be produced or given at the hearing to establish the matters described in subparagraphs (i) and (ii) of section 24(2)(d).

[22] Section 24(2)(d) provides:

> (2) Subject to subsections (3) and (4), the person is eligible for surrender in relation to an extradition offence for which surrender is sought if—
>
> …
>
> (d) the court is satisfied that the evidence produced or given at the hearing would, according to the law of New Zealand, but subject to this Act,—
>
> (i) in the case of a person accused of an extradition offence, justify the person's trial if the conduct constituting the offence had occurred within the jurisdiction of New Zealand; or
>
> (ii) in the case of a person alleged to have been convicted of an extradition offence, prove that the person was so convicted.

[23] If the Court finds that a respondent is eligible for surrender the provisions of s 46 of the statute apply.

[24] The exercise required of the Court under s 45 is not confined simply to examining the warrant on its face, but also requires the Court to be satisfied of the evidential requirements of s 41.

[25] In summary, there is an accelerated extradition process under Part 4 of the Act, New Zealand having recognised that the UK is a jurisdiction which operates in a manner closely aligned with New Zealand. A wider examination of an extradition request from the United Kingdom therefore is hindered as little as possible by New Zealand processes. It is to be assumed that the respondent will be accorded all due process in the UK if he is surrendered there and it is unnecessary for the New Zealand Court to enquire further about that process. All that is necessary is for a New Zealand Court to have received a validly issued warrant for the arrest of the respondent, to determine that the offence or offences are extraditable offences and that the respondent is an extraditable person, and then to consider (in this case)

> whether the respondent has satisfied the Court there should be a discretionary restriction on surrender in the terms set out in s 8.
>
> [26] Despite there being no requirement to enquire into the evidence or processes or of the UK Court, a number of decisions have established both in New Zealand and overseas that there is an overlying duty of candour….

Validity of warrant

[12] Mr Wilkinson-Smith's challenge to the validity of the arrest warrant on which the extradition proceeding is based is founded on three propositions. First, that on its face the warrant is not proved to have been validly issued. Second, that it was not properly verified by admissible evidence before the District Court. Third, that the warrant issued in May 2003 had not been withdrawn at the same the new UK warrant was issued.

Invalidity on the face of the warrant

[13] Section 75(1) of the Act provides that judicial documents stating facts relevant to the extradition proceedings, given or made outside New Zealand, are admissible as evidence if duly authenticated. The Act also provides for the admissibility of documentary hearsay evidence if a judicial document taken, given or made outside New Zealand, and tending to establish a fact or opinion, is duly authenticated.[6]

[14] For the purposes of the Act, a judicial document is duly authenticated if it purports to be signed or certified by a Judge and is verified by the oath of a witness or it purports to be sealed with an official or public seal of the country in which it was issued.[7] Every court must take judicial notice of every signature or seal referred to in s 78(1).[8]

[15] Mr Wilkinson-Smith's challenge to the validity of the warrant on its face was hampered by counsel's not having been shown the original warrant which was produced at the District Court; he had been given only photocopies of the relevant

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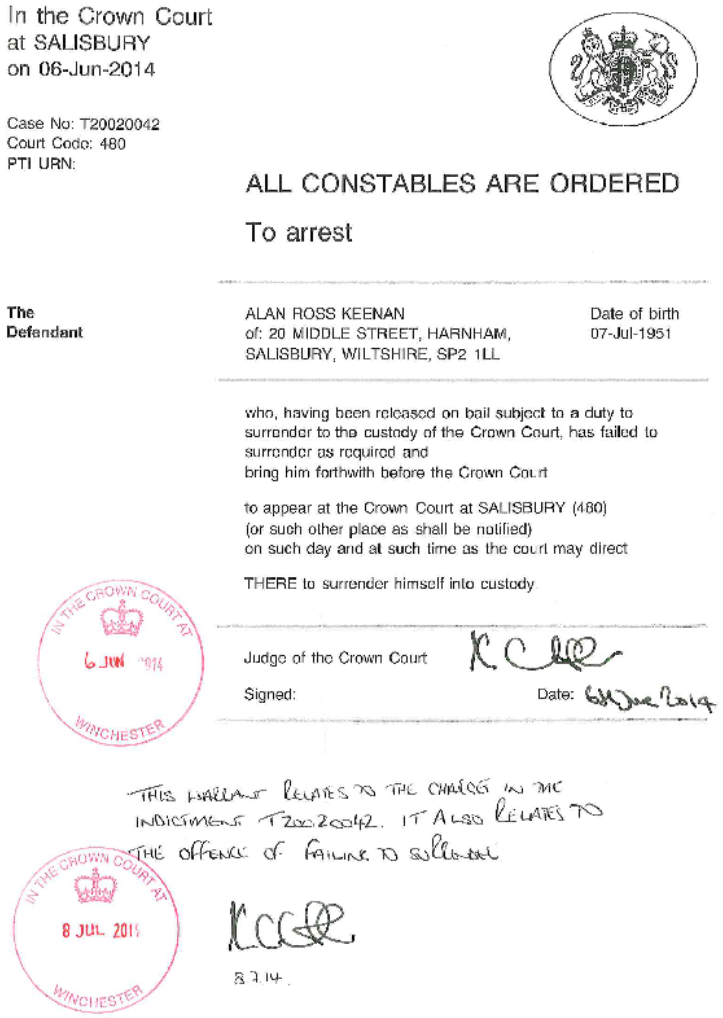
6 Extradition Act 1999, s 76.
7 Section 78(1).
8 Section 78(2).

documents. Counsel appears to have been misled by the fact that what is said to be the seal of the Crown Court from which Judge Cutler issued the warrant, a pink or pale red stamp, was not displayed on his copy. Having viewed the original in the course of the appeal, Mr Wilkinson-Smith properly conceded that the explanation must be that the photocopying equipment which was used to prepare the copy he was given did not adequately reproduce the original. Nevertheless, Mr Wilkinson-Smith argued that the stamp did not amount to "an official or public seal" and was merely a stamp.

[16] I am not persuaded by that submission. The use of wax and engraved seals for sealing public documents is now relatively rare; stamps are ubiquitous. This is the warrant:



In the Crown Court
at SALISBURY
on 06-Jun-2014

Case No: T20020042
Court Code: 480
PTI URN:

ALL CONSTABLES ARE ORDERED

To arrest

The Defendant

ALAN ROSS KEENAN
of: 20 MIDDLE STREET, HARNHAM, SALISBURY, WILTSHIRE, SP2 1LL

Date of birth
07-Jul-1951

who, having been released on bail subject to a duty to surrender to the custody of the Crown Court, has failed to surrender as required and
bring him forthwith before the Crown Court

to appear at the Crown Court at SALISBURY (480)
(or such other place as shall be notified)
on such day and at such time as the court may direct

THERE to surrender himself into custody

IN THE CROWN COURT AT 6 JUN 2014 WINCHESTER

Judge of the Crown Court

Signed:

Date: 6th June 2014

THIS WARRANT RELATES TO THE CHARGE IN THE INDICTMENT T20020042. IT ALSO RELATES TO THE OFFENCE OF FAILING TO SURRENDER

IN THE CROWN COURT AT 8 JUL 2014 WINCHESTER

8.7.14.

A copy of the indictment T20020042 was attached to the warrant.

[17] I had not noticed until I came to prepare this judgment that, although the warrant is intituled as being issued in the Crown Court at Salisbury, the seal affixed by Judge Cutler refers to the Crown Court at Winchester. I do not think that matters and I did not consider it necessary to receive further submissions from counsel on the point. I take judicial notice that the Crown Court of England and Wales, the higher court of first instance in criminal cases, is a single institution and one of the three which comprise the Senior Courts of England and Wales.[9] Like the Judges of the High Court of New Zealand, Crown Court Judges travel on circuit to sit in a number of locations in England and Wales, but the courts are not separately constituted in each location. It appears that the warrant was prepared in the Crown Court at Salisbury (where Mr Keenan is to be tried) but signed and sealed by the Judge while on circuit in the Court at Winchester, some 25 miles away.

[18] The District Court Judge was entitled to accept that the public seal of the Crown Court was affixed to the warrant at the time it was signed by Judge Cutler.

[19] Moreover, by virtue of s 77 of the Extradition Act, the application of the Evidence Act 2006 is preserved. Section 143 of the Evidence Act creates presumptions, unless the contrary is proved:

(a) that the document was sealed as it purports to have been sealed; and

(b) that it was signed by a person in an official capacity.

[20] There is no contrary evidence which displaces the presumption. Further, the points now taken by Mr Wilkinson-Smith about the appearance of the seal were not taken in the District Court. Hearing an appeal on a question of law under s 68, this Court is precluded by s 72(2)(a) from having regard to any evidence of a fact or opinion that was not before the District Court when it made the determination appealed against.

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[9] The others being the Court of Appeal (two divisions) and the High Court of Justice (three divisions).

Hearsay verification

[21] The legislative provisions relating to the production of the sealed warrant, including s 143 of the Evidence Act, also answer Mr Wilkinson-Smith's point about the hearsay evidence of the United Kingdom Police officer who gave evidence about the execution of the warrant. And, as Mr Harborow noted, the facts admitted in the District Court under s 9 of the Evidence Act included this:

6 June and 8 July 2014	Judge Cutler issues a warrant in the name of Alan Ross Keenan to surrender himself into custody.

[22] There is no merit in the verification point.

Successive warrants

[23] Responding to the argument that the District Court Judge could not have been satisfied that the applicable law allowed the issuing of successive warrants, Mr Harborow argued that the only warrant that was before the District Court for consideration was the new warrant which, as Judge Cutler's endorsement emphasised, related to the charges in the indictment, a copy of which was attached. I agree that the first warrant was not relevant to the issues to be determined by Judge Kiernan. For the purposes of deciding Mr Keenan's eligibility for surrender, the District Court Judge was required by s 45(2)(a) to be satisfied only that a warrant for Mr Keenan's arrest, endorsed under s 41(1), had been produced to the Court. That fact was proved.

[24] The arguments related to the validity of the warrant must fail.

Discretionary restriction based on delay – s 8(1)

[25] Mr Wilkinson-Smith's more substantive argument was that Judge Kiernan made an error of law in her consideration whether, notwithstanding that there was proved compliance with the statutory extradition procedure, a discretionary restriction on Mr Keenan's surrender existed under s 8(1) of the Act.

[26] I repeat the provisions of s 8(1):

> (1) A discretionary restriction on surrender exists if, because of—
>
> (a) the trivial nature of the case; or
>
> (b) if the person is accused of an offence, the fact that the accusation against the person was not made in good faith in the interests of justice; or
>
> (c) the amount of time that has passed since the offence is alleged to have been committed or was committed,—
>
> and having regard to all the circumstances of the case, it would be unjust or oppressive to surrender the person.

[27] Mr Wilkinson-Smith acknowledged that the only basis for arguing that a discretionary restriction should be applied was that a long period has passed since the offences were alleged to have been committed and that, having regard to all of the circumstances of the case, it would be unjust or oppressive to surrender Mr Keenan to the United Kingdom. Counsel noted that the statutory test under s 8(1)(c) requires consideration of the amount of time that has passed between the date the offence is alleged to have been committed and the date of the District Court's decision on the extradition; that is, from August 1999 (the earliest alleged offending) to 8 July 2016 (the date of the District Court's decision). Mr Wilkinson-Smith submitted, however, that the Judge had misdirected herself by focusing on the bureaucratic delays which led to the passage of more than 12 years between the date Mr Keenan absconded to New Zealand and the date of his arrest in November 2015.

[28] The submission that the District Court Judge misled herself as to the relevant period is based on an argument that the Judge accepted a proposition of counsel for the respondent that, although the delay in the extradition proceeding was in the region of 13 years, only six years of that delay were attributable to inaction by the relevant authorities.

[29] The Judge acknowledged that argument[10] and discussed the competing submissions about responsibility for the delay as between Mr Keenan (whom the respondent said had caused the delay by absconding to New Zealand; changing his

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[10] *The United Kingdom of Great Britain and Northern Ireland v Keenan*, above n 2, at [123].

name; travelling on a New Zealand passport under his newly assumed name; and entering the United Kingdom by a ferry from Northern Ireland so as to avoid having to show his passport to UK authorities) and the UK Home Office and New Zealand authorities. There was undoubtedly unexplained and unjustifiable bureaucratic inaction over a long period, but the Judge gave no indication that she misunderstood the plain wording of s 8(1)(c). She quoted the section in her summary of the relevant statutory provisions and repeated it later in the judgment at the beginning of her discussion of the delay point.[11] The Judge also noted the period of delay between 2003 and 2015 referred to by Mr Wilkinson-Smith in his submissions;[12] and referred in other parts of the judgment to delays of approximately 13 years or 12 years. Importantly, when discussing the reasons for her decision on the delay point, the Judge referred to the amount of time that had passed since the offences were alleged to have been committed, and noted the submission that Mr Keenan had been lulled into a false sense of security and established himself in a new and meritorious life between 2003 and late 2015 when authorities made contact with him.[13]

[30] There is nothing in the judgment to indicate that Judge Kiernan misunderstood the period of delay which was relevant to the argument under s 8(1)(c). References to the causes of the delay due to bureaucratic inaction were made in the context of considering the merits of the submission that it would be unjust or oppressive to surrender Mr Keenan.

[31] Counsel also advanced arguments about the various authorities addressing what circumstances were relevant to the Court's consideration under the delay provision. But those cases and the discretionary factors referred to respectively by counsel and the District Court Judge go to the substantive merits of the Judge's decision. It was not argued by Mr Wilkinson-Smith on appeal that the Judge had erred in law in her application of the cases. Indeed, it is clear that the Judge took an expansive view of the circumstances which were relevant to her decision, arguably contrary to authority relied upon by the respondent.

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11 At [102].
12 At [72] and [105].
13 At [135]-[137].

[32] The ground of appeal based on a misdirection by the Judge as to the period of delay also fails.

Observations about the merits

[33] Notwithstanding that the appeal must be dismissed because there was no error of law in the approach taken by the District Court Judge, it is appropriate to acknowledge that the long periods of inaction between the UK and New Zealand authorities in this case were inexplicable and inexcusable. Mr Keenan's sense of grievance that such a lengthy period has expired before the authorities finally apprehended him in this country is understandable. He has lived a settled life here and among his concerns about his extradition to the UK to face trial is his relationship with a now 33-year-old son who is partially disabled. Mr Wilkinson-Smith also referred to the difficulties Mr Keenan will have facing trial on charges which are alleged to have occurred as long as 17 years ago.

[34] There is considerable force, however, in the respondent's submissions that Mr Keenan brought these consequences upon himself by failing to appear at his trial in May 2003 and that, in any event, the Crown Court can be expected to address Mr Keenan's fair trial rights in the course of the proceeding which will now take place.

Disposition

[35] I received helpful submissions from counsel as to disposition. The consequence of Mr Keenan's having failed to make out his grounds of appeal is that the decision of the District Court must be confirmed. It is agreed that Mr Keenan should be directed to report to the Auckland Central Police Station for surrender. Mr Wilkinson-Smith has suggested that the surrender should be required one week after the delivery of this judgment because:

(a) It is unclear whether time spent in New Zealand custody will count against any eventual UK sentence, so the period should be kept to a

minimum while the authorities make preparations to transport Mr Keenan to the United Kingdom.

(b) Mr Keenan handed himself in to the Police when he first became aware of the extradition application; has been on bail for the past year and has surrendered his passport.

(c) The appellant would wish time to consider the judgment and any application to pursue a further appeal.

[36] The respondent suggests that 48 hours is sufficient time to allow Mr Keenan to put his affairs in order and surrender himself to the Police. It is submitted that Mr Keenan has had ample time to visit his son in Nelson in anticipation that his appeal might fail.

Discussion

[37] Mr Keenan has been on bail since the time of his arrest in November 2015 and, more significantly, since Judge Kiernan made the order on 8 July 2016 that he should be surrendered. He has also been on bail, of course, since the hearing of the appeal. He has had as much time as he may reasonably have required to accommodate his extradition. Whether time spent in custody in New Zealand is relevant to any sentence which may be imposed in the event of Mr Keenan's conviction is a matter for the Crown Court.

[38] A period of just over 48 hours should be sufficient for both the UK authorities and Mr Keenan to make the appropriate arrangements for Mr Keenan's inevitable return to the United Kingdom, including informing the Police of his surrender.

Orders

[39] Accordingly, I make the following orders:

(a) I confirm the decision of Judge Kiernan of 8 July 2016 and the orders contained in it.

(b) Mr Keenan is directed to report to the Auckland Central Police Station not later than 8.00 am on Monday 17 October 2016, and thereafter to cooperate with the authorities in his extradition to the United Kingdom for trial.

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Toogood J