

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/BAL/00030/2025

BETWEEN

**STCHERBATCHEFF (nee Davis) BARBARA LYNN a.k.a. "BARBARA VIVIAN
MURPHY**

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Justice Darron Ellis

Appearances: Murio Ducille with Bryan Bastian for the Applicant

Daniel Dorsett for the Respondent

Hearing Date: 9 June, 2026

Criminal Law — Bail — Variation of Bail Conditions — Extradition Proceedings — Flight Risk — Proportionality — Reporting Conditions — Curfew — Electronic Monitoring — Reduction of Bail Amount.

Application by Barbara Vivian Murphy for variation of bail conditions imposed in pending extradition proceedings. The Applicant had been granted bail in the sum of \$150,000, subject to electronic monitoring, reporting three times weekly, a daily curfew from 8:00

p.m. to 7:00 a.m., surrender of travel documents, and a restriction on leaving New Providence.

The extradition request arose from allegations that the Applicant removed her child from Switzerland to The Bahamas contrary to Swiss custody arrangements. The Applicant sought a relaxation of bail conditions, relying on full compliance, community and employment ties, the absence of previous convictions, and hardship caused by the curfew and electronic monitoring. The Respondent opposed, contending that the Applicant remained a flight risk given the seriousness of the allegations, pending extradition proceedings, international connections, travel-document concerns, and uncertain immigration status.

Held: Application granted in part.

The Court held that bail conditions must secure attendance and protect the administration of justice, but should not be more onerous than reasonably necessary. The Court accepted that the Applicant's compliance and the hardship caused by the existing curfew justified a limited variation, but declined to remove electronic monitoring given continuing flight-risk concerns.

Bail was varied by reducing the police station reporting requirements from 3 days to 2, to Mondays and Fridays before 6:00 p.m., and by varying the curfew from 8:00 p.m. to 12:00 midnight to 7:00 a.m. daily. Electronic monitoring, surrender of travel documents, the restriction on leaving New Providence, and all other conditions remained in force.

Authorities considered: **Khan v Government of the United States of America** [2009] EWHC 2677 (Admin); [2010] 1 Ex LR 323; **Swedish Judicial Authority v Serwin** [2017] EWHC 3459 (Admin); **R v Uxbridge Justices, ex parte Heward-Mills** [1983] 1 WLR 56.

RULING

Introduction

[1.] This is an application by Barbara Vivian Murphy ("the Applicant") for a variation of the conditions upon which she was granted bail on 2 April 2025. The Applicant is the subject of pending extradition proceedings arising from allegations that, in or about February 2023, she removed her child, Valentin Stankowski, from Switzerland to The Bahamas contrary to Swiss custody arrangements. The requesting state alleges that the Applicant was permitted

visitation with the child but was prohibited from travelling abroad with him. Following a criminal complaint, an Interpol notice was issued, and a warrant of arrest was obtained.

[2.] On 2 April 2025, the Applicant was granted bail in the sum of \$150,000, subject to conditions including the following:

- The Applicant is to be fitted with an Electronic Monitoring Device and must report to the Airport Police Station every Monday, Wednesday, and Friday before 6 pm.
- The Applicant is to observe a curfew at her registered address at #1 Nelson Road, Mount Pleasant, between the hours of 8 pm and 7 am daily.
- The Applicant is to surrender all travel documents to the Registrar of the Supreme Court.
- The Applicant is not permitted to leave the island of New Providence without prior leave of the court.

[3.] Applicant now seeks to vary those conditions. In particular, she seeks a reduction in the amount of bail, a reduction in her reporting requirements, and a relaxation of the curfew. She also seeks the removal of the electronic monitoring device, contending that it interferes with her ability to exercise.

Applicant's Evidence and Submissions

[4.] The Applicant deposes that she is 44 years of age, resides in New Providence, and is charged with one count of kidnapping and one count of child stealing. She states that she was released on bail on 22 April 2025 and that the extradition proceedings remain pending before the Magistrate's Court.

- [5.] The Applicant submits that she has fully complied with all conditions of bail since her release. She relies upon her continued residence in New Providence, her part-time employment as an administrative assistant, her family and community ties, her lack of previous convictions, and the absence of any other pending criminal matters. She undertakes to continue attending court whenever required and to comply with any conditions imposed by this Court.
- [6.] The Applicant further submits that the existing conditions have become unnecessarily onerous. She states that the 8:00 p.m. curfew prevents her from accepting paid evening engagements as a pianist and member of a local band, thereby restricting her ability to earn income. She also states that the electronic monitoring device interferes with long-distance running and increases her risk of injury.
- [7.] The Applicant relies upon several character references. Ms Jennifer Fulton, a musician, states that the Applicant is an accomplished pianist and that the present curfew prevents her from participating in evening performances at restaurants and hotels. Mr Henrik Moos, a local businessman and member of the Applicant's running club, states that the electronic monitoring device restricts the Applicant's ability to run and that the curfew prevents her from participating fully in the club's activities. The Rt. Rev'd. Laish Boyd, Bishop of The Bahamas and the Turks and Caicos Islands, states that the Applicant has become active in church life, regularly attends services, serves as a lector and volunteer, and has made positive contributions to the wider community.
- [8.] The Applicant therefore asks the Court to relax the conditions of bail by reducing the amount of bail, reducing the reporting requirements, extending the curfew, and removing the electronic monitoring device.

The Respondent's Evidence and Submissions

- [9.] The Respondent opposes the application. In an affidavit sworn by Ms Davina Pinder, Assistant Counsel in the Office of the Director of Public Prosecutions, the Respondent contends that the Applicant remains a serious flight risk and that the existing bail conditions should remain in force.
- [10.] The Respondent relies upon the allegations underlying the extradition request, including the Swiss extradition request, the arrest warrant, the Interpol notice, and the Swiss custody orders. It submits that the Applicant is alleged to have removed the child from

Switzerland to The Bahamas contrary to Swiss custody arrangements, and that the pending extradition proceedings create a substantial incentive to abscond.

[11.] The Respondent further relies upon the Applicant's international connections. It is alleged that the Applicant was born in the United States, is a citizen of the United Kingdom, and allegedly possesses a Mexican diplomatic passport containing forged particulars. The Respondent also relies upon the absence of permanent immigration status in The Bahamas and the expiry of the Applicant's work permit. It submits that those matters, taken together, demonstrate a continuing risk of flight.

[12.] The Respondent contends that the extradition proceedings have not been unreasonably delayed and that the matter is presently adjourned to 21 July 2026. It is also submitted that the evidence supporting the extradition request remains strong.

[13.] In the alternative, the Respondent submits that, should the Court be minded to vary bail, any variation should be limited. The Respondent accepts, in the alternative, that the reporting requirement may be reduced to Mondays and Fridays, that the curfew may be extended from 8:00 p.m. to 12:00 midnight, and that the amount of bail may be reduced from \$150,000 to \$100,000, provided that the remaining conditions, including electronic monitoring, remain in force.

Applicable Legal Principles

[14.] The central purpose of bail conditions is to ensure the accused's attendance and protect the administration of justice. Conditions of bail must be sufficient to address the identified risks, but they should not be more onerous than is reasonably necessary for that purpose. Bail conditions are not imposed as punishment; they are protective and regulatory in nature.

[15.] In extradition proceedings, the risk of flight is often a central consideration. The English Administrative Court has held that extradition bail is approached by asking whether there are substantial grounds for believing that the requested person would fail to attend the extradition hearing or subsequent proceedings. In **Khan v Government of the United States of America [2009] EWHC 2677 (Admin); [2010] 1 Ex LR 323**, the Court considered the strength of the requesting state's case, the likely sentence if extradited and convicted, the requested person's international connections, the availability of passports, and whether proposed conditions such as residence, tagging, curfew and reporting would adequately meet the risk.

- [16.] The purpose of bail conditions is to secure the attendance of the accused or requested person and to protect the administration of justice. The Court must therefore assess whether the existing conditions remain necessary and proportionate to the risk identified.
- [17.] The existence of stringent proposed conditions does not automatically answer a flight-risk concern. In **Khan**, although substantial sureties, residence, tagging, curfew, and reporting were offered, the Court held that those conditions did not sufficiently mitigate the risk, as the incentive and ability to flee remained substantial.
- [18.] Conversely, where the Court is satisfied that less restrictive conditions remain sufficient to secure attendance, bail may properly be varied. The Court's task is a practical one: it must determine whether the existing conditions continue to be necessary or whether less onerous measures can achieve the same objective.
- [19.] The same approach is reflected in **Swedish Judicial Authority v Serwin**, [2017] EWHC 3459 (Admin) where the Court recognised that, even where there is a presumption in favour of bail, the court must assess the seriousness of the alleged offending, the scale of the allegations, cross-border connections, access to assets abroad, and the extent to which stringent conditions such as security, surety, reporting and curfew mitigate the risk of absconding.
- [20.] The authorities also recognise that recognisances, sureties and cash bail are serious obligations. However, their amount must still be assessed in a manner that is fair and just, having regard to the circumstances. In **R v Uxbridge Justices, ex parte Heward-Mills** [1983] 1 WLR 56 the Court held that, when determining the consequences of a recognisance, the court is concerned with what is fair and just, including the person's means and the extent to which the financial condition remains appropriate. Although that case concerned forfeiture after failure to surrender, it is persuasive in emphasising that financial bail conditions must be treated as serious but proportionate obligations.
- [21.] The Court is therefore required to conduct a practical risk assessment. The fact that bail was originally granted on strict terms does not deprive the Court of jurisdiction to vary those terms where circumstances, compliance, proportionality, or the proper administration of justice justify doing so. Equally, compliance with bail conditions, while important, does not, by itself, eliminate a continuing flight risk. The question is whether the existing conditions remain necessary or whether less onerous conditions can achieve the same legitimate objectives.

Analysis

[22.] I accept that the allegations underlying the extradition request are serious. The Applicant faces extradition proceedings in respect of allegations involving the removal of a child from Switzerland to The Bahamas, contrary to Swiss custody arrangements. The seriousness of the allegations, the existence of pending extradition proceedings, and the Applicant's international connections are all matters properly relied upon by the Respondent in assessing flight risk.

[23.] I also accept that the Applicant does not have permanent immigration status in The Bahamas and that the Respondent has raised concerns regarding travel documents and international mobility. Those matters justify the continuation of meaningful bail controls, including the surrender of all travel documents, restrictions upon leaving New Providence, reporting to the police, and electronic monitoring.

[24.] However, the Court must also give proper weight to the Applicant's conduct since her release. There is no evidence before this Court that the Applicant has breached any condition of bail. There is no evidence that she has failed to report, attempted to leave the jurisdiction, interfered with witnesses, or obstructed the extradition proceedings. Her compliance to date is not determinative, but it is a relevant and significant consideration.

[25.] The Court also accepts that the existing 8:00 p.m. curfew imposes a substantial practical burden upon the Applicant. The evidence of Ms. Fulton supports the Applicant's contention that evening musical engagements are a realistic means by which she may earn income. The Court is satisfied that a modest extension of the curfew to 12:00 midnight would materially reduce the hardship caused by the present condition while still requiring the Applicant to be at her registered residence overnight.

[26.] I am also satisfied that the reporting requirement may properly be reduced from three days per week to two days per week. Reporting every Monday and Friday maintains regular police supervision across the week and continues to provide an effective means of monitoring the Applicant's presence in the jurisdiction. In the circumstances of this case, and having regard to her compliance to date, the Wednesday reporting requirement is no longer necessary.

[27.] The Court is not minded to reduce the bail amount. The present amount continues to operate as a meaningful incentive to attend court and comply with the conditions of bail.

[28.] Additionally, I am not satisfied that the electronic monitoring condition should be removed at this stage. The Applicant's concerns regarding running and physical exercise are noted, but the Respondent's concerns as to flight risk remain substantial. The electronic monitoring

device is an important safeguard given the Applicant's international connections and the pending extradition proceedings. The Court is not persuaded that the hardship caused by the device outweighs its continuing utility as a risk-management condition.

[29.] In my judgment, the proper balance is achieved by a partial variation of bail. The varied conditions will reduce unnecessary hardship while preserving the essential safeguards required to secure the Applicant's attendance and protect the integrity of the extradition process.

Conclusion

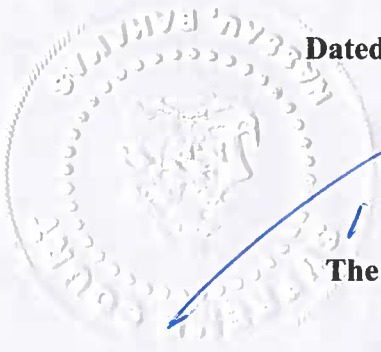
[30.] For the reasons set out above, the application is granted in part. The Court is satisfied that the Applicant's compliance with bail to date, her employment and community ties, and the practical hardship caused by the existing conditions justify a limited variation. At the same time, the Court remains satisfied that meaningful conditions are necessary in light of the seriousness of the allegations, the pending extradition proceedings, and the continuing risk of flight.

[31.] The Court therefore orders that the Applicant's bail conditions be varied as follows:

- i. The Applicant shall report to the Airport Police Station every Monday and Friday before 6:00 p.m.
- ii. The Applicant shall observe a curfew at her registered address at #1 Nelson Road, Mount Pleasant, between 12:00 midnight and 7:00 a.m. daily.
- iii. The Applicant shall continue to wear the electronic monitoring device unless and until further order of the Court.
- iv. The Applicant shall continue to surrender all travel documents to the Registrar of the Supreme Court.
- v. The Applicant shall not leave the island of New Providence without prior leave of the Court.
- vi. All other conditions of bail not expressly varied by this order shall remain in full force and effect.

[32.] The Applicant is reminded that any breach of these conditions may result in the revocation of bail, the issue of a warrant for her arrest, and such further orders as the Court considers just. The applicant should be informed of her right of appeal, and she may pursue that avenue if so advised, or alternatively bring renewed applications for bail variation as permitted by law.

Dated this 8th day of July, A.D. 2026.



The Hon. Mr. Justice Darron Ellis