

respect of LA, and having done so to note that the assurance could not obviate a finding that it would be oppressive to extradite. Having rejected the argument that the evidence did not support a finding of oppression, the assurance in the court's view had no relevance.

22. Reflecting on the court's judgment one might well receive the impression that the District Judge had applied the test of fitness to plead very rigorously indeed. With all due respect to the view of the Divisional Court, that is a very questionable view. Unfortunately that is the basis of the Court's decision. I note with regret that the Court's rehabilitation of the District Judge's findings was in my view rather artificial, but it remains the stated basis of the court's judgment and no challenge could be made to that decision on the basis that it involved a point of law of general public importance. In my opinion therefore there are no proper grounds of appeal in the form of a certified question, that could be pursued before the Supreme Court and in those circumstances I must advise, with regret that the decision of the court to dismiss the appeal cannot be challenged further.

Endnote

23. It should be noted that the District Judge's comments on the delay in the proceedings should not be taken as criticisms of the conduct of the case on behalf of the CPS or the Indian authorities. The delay in the case was wholly attributable to efforts made on behalf of the Respondent to challenge the sufficiency of the evidence in the request, whether extradition was barred by the passage of time and whether prison conditions in India breached the Respondent's rights under the European Convention on Human Rights. Having explored all these points to the limit, none were pursued by the Respondent on appeal.
24. Given the seriousness of the offences charged I am bound to consider whether there is any prospect of further proceedings being taken against the Appellant.

Domestic Prosecution

25. Where extradition cannot take place the CPS may consider whether a domestic prosecution could be brought in respect of the underlying conduct. In that situation