

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

3
4 **IND NO: 0060/2017**

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7 **REGINA**



8
9 **v.**

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11 **DAVID DEAN MEADORS**

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15 **Appearances:**

**Mr. Patrick Moran, Deputy Director of
Public Prosecutions for the Crown**

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18 **Mr. Ben Tonner Q.C. of McGrath Tonner
for the Defendant**

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21 **Before:**

Justice Roger Chapple (Actg.)

22 **Heard:**

19th November 2019

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25 **HEADNOTE**

26 *Criminal Law – s.7 of the Bill of Rights – Defendant is beyond the seas. Crown*
27 *contend that he is voluntarily absent and accordingly apply for him to be tried in*
28 *his absence – Medical evidence relating to defendant’s claim that he is medically*
29 *unable to travel to the Cayman Islands examined by way of written and viva voce*
30 *expert evidence.*

31
32 **JUDGMENT ON**

33 **APPLICATION BY THE CROWN FOR DEFENDANT TO BE TRIED IN HIS**

34 **ABSENCE**

35 **&**

36 **PARALLEL DEFENCE APPLICATION FOR DEFENDANT TO BE DEEMED**

37 **INVOLUNTARILY ABSENT FROM THE JURISDICTION**

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*Judgment on Crown’s Application for the Defendant to be tried in his absence & Parallel Defence
Application for the Defendant to be deemed Involuntarily absent from the Jurisdiction. Ind. 60/17. R v.
David Dean Meadors. Coram: Chapple J. (Actg.). Date: 25.09.20*



1 1. The Defendant, Mr David Meadors, is a citizen of the United States of America
2 (USA) and ordinarily resident in Florida. Sometime in or before 2017, he
3 purchased land on Cayman Brac, where he planned to build a house to which he
4 and his wife intended, in due course, to retire. Construction work was underway
5 when Mr Meadors was arrested on 7th July 2017 and charged with firearms
6 offences (importation and possession of two firearms and ammunition).

7
8 2. He appeared before the Grand Court on 7th September 2017 when he was arraigned
9 upon a five count indictment. He pleaded guilty to counts 1 & 2 (importation and
10 possession of a Glock 9mm hand-gun) and not guilty to counts 3, 4 and 5
11 (importation/possession of 240 rounds of 9 mm ammunition and possession of an
12 unlicensed BB gun). The ammunition had been found in a shipping container filled
13 with construction materials. Those pleas were not acceptable to the prosecution
14 and accordingly a date was fixed for the trial of counts 3, 4 and 5: Mr Meadors'
15 trial was to commence on 19th April 2018.

16
17 3. At the conclusion of the hearing on the 7th September 2017, Mr Meadors' bail was
18 varied so as to allow him to return to Florida for 10 days to make preparations for a
19 predicted hurricane. A subsequent application to extend his time out of the
20 jurisdiction was refused and Mr Meadors duly returned.

21
22 4. On 18th January 2018, following an application, not opposed by the prosecution,
23 bail was again varied to allow Mr Meadors to leave the jurisdiction until 4th
24 February 2018 – on this occasion for medical reasons. Further applications were
25 made and granted for Mr Meadors to remain outside the jurisdiction, since it was
26 said that a series of medical tests and procedures were required and that his
27 condition had worsened.

1 5. Following a hearing - at which Mr Meadors appeared by live video-link - bail was
2 again varied, effectively requiring him to return to the Cayman Islands by 27th
3 April 2018. He did not do so. A warrant was issued for his arrest.

4
5 6. Mr Meadors remains outside the jurisdiction. He has made it clear that he will not
6 return to this jurisdiction for his trial. Accordingly, the prosecution applies for the
7 trial of counts 3, 4 and 5 of the indictment to proceed in his absence.

8
9 7. Mr Meadors' position is and always has been that although he would very much
10 like matters to be resolved, his medical condition is such that he cannot, reasonably
11 or safely, leave the USA to travel to and remain in the Cayman Islands for his trial.
12 He has provided a substantial volume of expert medical evidence to support that
13 proposition. The prosecution has had full access to that material and has instructed
14 an expert, Dr Yancey, to consider the position.

15
16 8. The prosecution contends that whilst Mr Meadors may have some medical
17 problems, they are not such as to prevent him from surrendering to his bail in this
18 jurisdiction and submitting to the trial process. The prosecution contends that Mr
19 Meadors has consistently exaggerated, if not manufactured, symptoms, ailments
20 and complaints, leading those treating him to conclude that his condition is more
21 complex and insoluble than is in fact the position.

22
23 9. The starting point, it is agreed, is the *Cayman Islands Constitution Order, 2009*,
24 which established a *Bill of Rights, Freedoms and Responsibilities* for this
25 jurisdiction. Section 7 of the *Bill of Rights* provides, insofar as it is relevant to this
26 application, as follows:



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1 **“Fair trial**

2 7. (1) *Everyone has the right to a fair and public hearing in the*
3 *determination of his or her legal rights and obligations by an*
4 *independent and impartial court within a reasonable time.*

5 (2) *Everyone charged with a criminal offence has the following*
6 *minimum rights –*

7 (a) *to be presumed innocent until proved guilty according*
8 *to law;*

9 (b) *to be informed promptly, in a language which he or*
10 *she understands and in detail, of the nature and cause*
11 *of the accusation against him or her;*

12 (c) *to have adequate time and the facilities for the*
13 *preparation of his or her defence;*

14 (d) *to defend himself or herself in person or through legal*
15 *assistance of his or her own choosing or, if he or she*
16 *has not sufficient means to pay for legal assistance*
17 *and the interests of justice so require, through a legal*
18 *representative at public expense provided through an*
19 *established public legal aid scheme as prescribed by*
20 *law;*

21 (e) *to examine or have examined witnesses against him or*
22 *her and to obtain the attendance and examination of*
23 *witnesses on his or her behalf under the same*
24 *conditions as witnesses against him or her;*

25 (f) *to have the free assistance of an interpreter if he or*
26 *she cannot understand or speak the language used in*
27 *court;*

28 *and, except with his or her own consent, the trial shall not take*
29 *place in his or her absence, unless he or she so behaves in the*
30 *court as to render the continuance of the proceedings in his or*
31 *her presence impracticable and the court has ordered him or*
32 *her to be removed and the trial to proceed in his or her*
33 *absence, or unless, having had reasonable notice of the*
34 *hearing and of the nature of the offence charged, he or she is*
35 *voluntarily absent from the proceedings.*
36

37

38 10. At an early stage in the course of this application – back in May 2019 – the
39 possibility was canvassed that Mr Meadors could attend and participate in his trial
40 by live video-link from Florida. If that were legally permissible and acceptable to
41 both parties, that would obviate the need to hear and resolve complex disputed
42 medical evidence, with an obvious saving of court time. Mr Tonner QC, instructed
43 by Mr Meadors, indicated that his client would be content to proceed in that way,
44 and that he wished to give evidence at his trial. Having heard argument, I
45 concluded that whilst Mr Meadors could attend his trial by video-link, present



1 legislation did not permit him to give evidence via video-link. I gave a full
2 judgment at the conclusion of argument. That judgment should be read in
3 conjunction with this judgment and therefore, for ease of reference I set it out here.
4 I commence at paragraph 10 – 43 (x. – xliii below) of *that* Judgment as the
5 paragraphs 1-9 are the same introductory paragraphs as in this Judgment:

- 6 x. *I have the benefit of full skeleton arguments from Mr Tonner QC on*
7 *behalf of Mr Meadors and from Mr Moran on behalf of the*
8 *prosecution. I am grateful to both attorneys for their industry and*
9 *assistance.*
- 10
11 xi. *In the course of submissions, I have been referred to a number of*
12 *authorities – and inevitably, many of those authorities were from*
13 *England and Wales. I should at the outset note one important*
14 *difference between this jurisdiction and England and Wales. In*
15 *England and Wales, it is clear that a court has a general discretion to*
16 *proceed with a trial in the absence of a defendant (a similar provision*
17 *is to be found in the **European Convention on Human Rights**) – even*
18 *where a defendant’s absence is involuntary. No such discretion exists*
19 *in this jurisdiction. That distinction must be borne in mind*
20 *particularly when considering English authorities.*
- 21
22 xii. *The position here is that unless I am satisfied that Mr Meadors’*
23 *absence is voluntary, no trial can take place. I have no residual*
24 *discretion.*
- 25
26 xiii. *Since I first became involved in this case, matters have, as Mr Tonner*
27 *puts it, become more “nuanced.”*
- 28
29 xiv. *At that first hearing, I raised, in the unusual circumstances of this*
30 *case, the question of whether Mr Meadors could participate in his trial*
31 *by live video-link from Florida. If that were legally permissible and*
32 *acceptable to both parties, I had thought this may obviate the need to*
33 *hear and resolve disputed medical evidence, with an obvious saving of*
34 *court time. It was agreed that both sides would consider matters*
35 *further.*
- 36
37 xv. *I now have additional skeleton arguments from Mr Tonner and Mr*
38 *Moran. Having taken further instructions, Mr Tonner explains Mr*
39 *Meadors’ revised position as follows: “[he] is willing to consent to the*
40 *trial proceeding in his physical absence provided he is given the*
41 *opportunity to participate in the trial via live video link.” It became*
42 *obvious, in the course of oral submissions, that Mr Meadors’ proviso*
43 *about participation included his giving evidence via live video link.*
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- 1 xvi. *The questions which arise are these:*
2 i. *Does the Grand Court have the power to allow a defendant*
3 *who is outside the jurisdiction and is either unwilling or*
4 *unable to attend his trial in person to attend his trial by video-*
5 *link?*
6 ii. *If so, may that defendant, should he wish to do so, give*
7 *evidence at that trial via live video-link?*
8 iii. *If, as a matter of law, Mr Meadors can both attend his trial*
9 *and give evidence via live video-link, should he be allowed to*
10 *do so, assuming that the court has a discretion in the matter?*
11
12 xvii. *If all three questions can be answered affirmatively, the trial can take*
13 *place – either because it is not a trial in his absence or if it is, Mr*
14 *Meadors has given his consent to it. In arriving at my decision, I may*
15 *or may not need to answer all three questions.*

16 **QUESTION I:**

- 17 xviii. *Section 60 of the **Criminal Procedure Code** (2019 Revision) reads as*
18 *follows:*

19 ***“Accused persons entitled to be present at trial and related***
20 ***proceedings and may be represented by a legal practitioner***

- 21 **60.** (1) *Every person accused of any criminal offence shall be*
22 *entitled to be present in court during the whole of*
23 *any proceedings relating to such offence unless he is*
24 *excluded by the court because he so conducts himself*
25 *in the court as to render the continuance of the*
26 *proceedings in his presence impossible.*
27 (2) *Notwithstanding subsection (1) and subject to section*
28 *54(2) —*
29 a) *where an accused person so conducts himself*
30 *in the court as to render the continuance of*
31 *the proceedings in his presence impossible, as*
32 *an alternative to excluding the accused under*
33 *subsection (1), the court may direct for such*
34 *period as the court determines, that the*
35 *accused shall appear by counsel or by live*
36 *television link or by any other means that*
37 *would allow the court and the accused to*
38 *engage in simultaneous visual and oral*
39 *communication; or*
40 b) *except where section 60A applies, the court*
41 *may, in its discretion —*
42 (i) *where an accused is confined in*
43 *prison (whether on remand or*
44 *otherwise); and*
45 (ii) *where the prosecutor and an accused*
46 *so agree at any time during any*
47 *proceedings relating to an offence*
48 *other than a part in which the*
49 *evidence of a witness is taken,*



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direct that the accused may appear by counsel or by live television link or any other means that allow the court and the accused to engage in simultaneous visual and oral communication.

- (3) *A court shall not give a direction under subsection (2) unless the court is satisfied that it is in the interests of the efficient or effective administration of justice for the accused person to appear in the proceedings through a live link or other means.*
- (4) *In deciding whether to give a direction under this section, the court must consider all the circumstances of the case; and such circumstances shall include the suitability of the facilities at the place where the accused or a witness would give evidence through a live link.*
- (5) *For the purposes of this section, the consent of the accused person to the conduct of the proceedings in his absence may be deemed to have been given in a case in which he enters a written plea of guilty under any law or in any case in which the court is satisfied that, having been duly summoned to appear before the court a reasonable time before the date appointed, the accused person wilfully refuses to attend at any time appointed by the court.*
- (6) *Every person accused of any criminal offence, whether present in person or absent in accordance with this section, may be defended before any court by a legal practitioner.*
- (7) *A statement made on oath and given in evidence through a link by virtue of this section shall be treated for the purpose of section 101 of the Penal Code (2019 Revision) as having been made in the proceedings in which it is given in evidence.*
- (8) *The Rules Committee of the Grand Court may make such rules as appears to it to be necessary for the purposes of this section.”*

xix. *This section provides that “every person accused of a criminal offence shall be entitled to be present in court during the whole of any proceedings relating to such offence unless he is excluded by the court because he so conducts himself in the court as to render the continuance of the proceedings in his presence impossible.”*

xx. *Subsections (2) - (4) of s.60 are concerned with disruptive defendants remanded in custody – and the arrangements that can be made for them to “appear in the proceedings through a video link” (the words used in s.60(3)).*

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- (b) *the witness is a child, or is to be cross examined following the admission under section 39 of a video recording of testimony from him and the offence is one to which section 39(2) applies; or*
- (c) *the witness is to give evidence as to a violent or sexual offence, but such evidence may not be given without the leave of the court.*
- (2) *This section applies to —*
- (a) *trials on indictment;*
- (b) *appeals to the Court of Appeal;*
- (c) *summary trials of Category B offences;*
- (ca) *summary trials of Category C offences;*
- (d) *proceedings in any youth court; and*
- (e) *preliminary inquiries.*
- (3) *A statement made on oath by a witness outside of the Islands and given in evidence through a live television link by virtue of this section shall be treated for the purpose of section 101 of the Penal Code (2019 Revision) as having been made in the proceedings in which it is given in evidence.*
- (4) *Where the court gives leave for a person to give evidence through a live television link then, subject to subsection (5), the person concerned may not give evidence otherwise than through a live television link.*
- (5) *A court may give permission for a person to give evidence otherwise than through a live television link if it appears to the court to be in the interests of justice to give such permission.*
- (6) *Permission may be given under subsection (5) —*
- (a) *on an application by a party to the case; or*
- (b) *of the court's own motion, but no application may be made under paragraph (a) unless there has been a material change of circumstances since the leave was given by virtue of sub-section (1).*
- (7) *The Cabinet may make such rules as appears to him to be necessary for the purposes of this section."*

1 **“Evidence through television links by accused**

2 **38.** *An accused person may give evidence through*
3 *a live television link in accordance with*
4 *section 60 of the Criminal Procedure Code*
5 *(2019 Revision).”*
6

7 xxvii. *Section 37, provides: “a person other than an accused person may*
8 *give evidence through a live television link in proceedings to which*
9 *subsection (2) applies” – and this includes trials on indictment – “if*
10 *(a) the witness is outside the Islands, (b) the witness is a child.....or (c)*
11 *the witness is to give evidence as to a violent or sexual offence.”*
12

13 xxviii. *Section 38, as noted above, permits an accused to give evidence via*
14 *video-link if the provisions of s.60(2) of the **Criminal Procedure Code***
15 *(2019 Revision) - disruptive custody defendants – are satisfied. I*
16 *should note that in this jurisdiction defendants are not eligible for*
17 *special measures directions.*
18

19 xxix. *Mr Moran submits that the **Evidence Law** provides a complete and*
20 *plainly expressed statutory scheme as to the circumstances in which*
21 *evidence can be given via video-link. They are, Mr Moran contends,*
22 *the only circumstances in which evidence can be given by video-link in*
23 *proceedings to which s.37 applies. The legislature clearly turned its*
24 *mind to the question of an accused giving evidence via video-link and*
25 *decided this should not be permitted (save in the case of a disruptive*
26 *custody defendant). Mr Moran helpfully drew attention to the case of*
27 ***Ukpaibo**³ the judgment which I have found helpful and persuasive. Mr*
28 *Moran’s submissions are I am sure correct.*
29

30 xxx. *Section 37 is plain and straightforward. The default position is that a*
31 *defendant’s evidence must be given in court and not by live video link;*
32 *the only exception to that position is provided in s.38/s.60(2).*
33

34 xxxi. *Section 37 envisages precisely the position of Mr Meadors – an*
35 *accused person outside the Islands. Mr Tonner’s submissions to the*
36 *contrary were valiant but in my judgement cannot be right. To allow*
37 *Mr Meadors to give evidence via video link at his trial would be to*
38 *flout the plainly expressed words of s.37, interpreting “a person other*
39 *than the accused” to mean “a person including the accused.”*
40

41 xxxii. *I am sure no discretion exists in the matter. No court can go behind*
42 *the plainly expressed provisions of s.37 and s.38 of the **Evidence Law**.*
43

44 xxxiii. *Question 3 does not fall to be answered, given my conclusion as to*
45 *question 2 above.*
46



³ *supra*



- 1 xxxiv. *The next step must then be to hear and resolve the disputed expert*
2 *medical evidence, in order for the court to decide whether or not Mr*
3 *Meadors is able, reasonably and sensibly, to surrender to his bail and*
4 *stand trial – whether or not he is “voluntarily absent from the*
5 *proceedings.”*
6
7 xxxv. *Mr Meadors, I understand, would wish to attend that hearing via video*
8 *link. He has attended at least one previous hearing by video link,*
9 *without objection from the prosecution or the court. I see no reason*
10 *why he should not do so on this occasion, should he so wish.*
11
12 xxxvi. *I am further asked to rule upon whether, in the context of that hearing*
13 *– enquiring into whether Mr Meadors is or is not voluntarily absent –*
14 *he can give evidence relevant to that issue - over a video link, should*
15 *he so wish.*
16
17 xxxvii. *This must depend upon whether this pre-trial hearing falls within the*
18 *scope of s.37. Section 37(2) applies the statutory scheme to a broad*
19 *range of hearings, as follows:*
20 *a. trials on indictment;*
21 *b. appeals to the Court of Appeal;*
22 *c. summary trials of category B offences*
23 *i. (ca) summary trials of category C offences*
24 *d. proceedings in any youth court*
25 *e. preliminary inquiries.*
26
27 xxxviii. *The forthcoming hearing certainly relates to trial on indictment, but of*
28 *course it is not the trial itself.*
29
30 xxxix. *Had the intention of the legislature been to apply the scheme to all*
31 *hearings “relating to trial on indictment”, or “all proceedings in the*
32 *Grand Court” it could – and I think would - have said so. Section*
33 *37(2) instead applies the scheme to five (5) specific types of hearings.*
34
35 xl. *I should add here for the avoidance of doubt that in this jurisdiction*
36 *“preliminary inquiries” is a term of art and clearly a reference to a*
37 *particular type of hearing (that laid down by s.88 of the **Criminal***
38 ***Procedure Code** (2019 Revision), rather than preliminary hearings in*
39 *the more general sense.*
40
41 xli. *Not without some hesitation, I conclude that the forthcoming hearing*
42 *is not a trial on indictment but a pre-trial hearing. That being so, it*
43 *falls outside the scheme provided by s.37. There is then no statutory*
44 *prohibition upon the court receiving evidence from Mr Meadors, in*
45 *this context, over a video link.*
46
47 xlii. *As with all occasions upon which it is proposed that evidence be given*
48 *via video link, the court has discretion as to whether to receive it in*
49 *this way. I exercise that discretion to permit Mr Meadors to give*
50 *evidence in this way with this proviso: the video link is to be arranged*
51 *and funded by the defence; in fairness to all, it is to be a good quality*
52 *and secure link, provided by professionals who have experience and*

1 expertise in providing video-conferencing facilities. It is important that
2 the participants in the video link can see and hear each other clearly.
3 For the avoidance of doubt the use of a cell phone, iPad, and/or Skype
4 or similar would not be appropriate. I leave it to Mr Meadors’
5 representatives to liaise with the court in this regard.
6

7 xliii. I will hear the evidence relating to this issue, as arranged,
8 commencing on 13th June.”
9

10
11 11. As I have said, the Defendant, Mr Meadors, has made it abundantly clear that as
12 matters presently stand, he will not travel to this jurisdiction to stand his trial. The
13 first question I then have to resolve is whether his absence from the proceedings is
14 or is not “voluntary.”

15
16 12. The wording of s.7 of the *Bill of Rights Freedoms and Responsibilities* is plain.
17 Mr Meadors does not consent to the trial of counts 3, 4 and 5 taking place in his
18 absence. If he is not voluntarily absent, the trial cannot take place.

19
20 13. In this jurisdiction, the court has no discretion to try a defendant who is
21 involuntarily absent. If however, I conclude that Mr Meadors is voluntarily absent
22 then, it is agreed, the court has a discretion as to whether or not a trial should take
23 place.
24

25 14. Assistance as to how that discretion should be exercised and the factors properly to
26 be taken into account are provided by the England and Wales authority of *R v*
27 *Jones (Anthony)*⁴. The first questions arising for consideration, it seems to me, are:

- 28 i. Where in this application does the burden of proof lie; and
29 ii. What does voluntary absence mean, in the particular
30 circumstances of this application?
31



⁴ [2003] 1 AC 1

1 Both questions are helpfully addressed by Mr Moran and Mr Tonner in their
2 written submissions. Neither Counsel has been able to find, either in this
3 jurisdiction or in England and Wales, any authority to assist.

4
5 15. It is convenient to look at both questions compendiously, since the answer to one
6 informs the other.

7
8 16. One starts from the common ground that Mr Meadors will not attend his trial. He
9 asserts that his absence is not voluntary, in the sense that he does not have a free
10 and proper choice in the matter, due to the medical circumstances in which he finds
11 himself. I am in no doubt – and it is not in dispute – that the burden of proving that
12 Mr Meadors’ failure to attend is involuntary rests with the defence. Mr Moran, in
13 his written submissions speaks of the more usual situation when a defendant fails
14 to attend. Once the prosecution has proved to the satisfaction of the court that the
15 absent defendant has had proper and effective notice of the trial date, there is a
16 rebuttable presumption that his absence is voluntary and there is an evidential
17 burden for the defendant to discharge if he can.

18
19 17. Mr Meadors asserts (and I bear in mind the general rule that he who asserts should
20 prove) that his absence was not voluntary. It is then for him to prove it – although
21 of course the standard of proof is on a balance of probabilities.

22
23 18. Mr Moran submits:



24 *“Two issues arise for the consideration of this court: (i) does the medical*
25 *evidence before the court objectively provide good reason for the defendant’s*
26 *absence from any trial? (ii) If the answer is “no” can the defendant’s evidence*
27 *(that he believes the medical evidence does provide good reason) nevertheless*



1 *make his absence involuntary.”*

2
3 Mr. Moran submits further that I should answer both questions in the negative. As
4 to the second question, Mr Moran contends:

5 *“It could rarely (if ever) to be right for a court to find that an irrational*
6 *decision of the defendant as to his own medical condition should trump an*
7 *objective decision of the court on this issue. It is further submitted that the*
8 *evidence of the defendant in this regard is entirely unsatisfactory.”*

9
10 19. In his written submissions, Mr Tonner puts it in this way:

11 *“The question arises as to what exactly it is that the defendant must prove on*
12 *the balance of probabilities. It is submitted that an assessment of voluntariness*
13 *requires the court to consider whether the defendant has a choice, being one*
14 *made of his own free will, as opposed to being made by coercion or duress....*
15 *In the present ... [application] it is submitted that the defendant must prove no*
16 *more than that he believes that his return to the Cayman Islands poses a risk of*
17 *serious physical injury to himself and that such belief is reasonably held.”*

18
19 20. I will return to these questions after having discussed the evidence for this
20 application, my impressions of the witnesses and my findings.

21
22 21. I have been asked to consider a huge quantity of medical evidence – at a
23 conservative estimate, well over 500 pages - consisting mainly of medical reports,
24 notes, test results, research and academic literature. The number of medical
25 practitioners with whom Mr Meadors has consulted since his return to the USA in
26 January 2018 is prodigious. I have reports from many but not from all of those with
27 whom he has consulted.

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29



1 22. When I was first asked to consider this application, it was envisaged that I would
2 hear oral evidence from two experts: Dr Linda Cox, instructed by the defence and
3 from Dr Yancey, instructed by the prosecution. The defence is no longer in a
4 position to call Dr Cox to give evidence, since an order was made on 8th July 2019
5 by the State of Florida Department of Health prohibiting her from practising
6 medicine with immediate effect. A copy of that emergency order is included in the
7 papers before me. There is no dispute as to its contents or conclusions. Dr Cox, it is
8 clear, suffers from mental disorder. In April 2017, staff at her practice reported that
9 she was exhibiting inappropriate, paranoid and manic behaviour. She rebuffed
10 suggestions that she seek psychiatric help. She failed to comply with an order
11 compelling her mental and physical examination in August 2017. Following
12 examination in October 2018, a psychiatrist concluded that she was “*not able to*
13 *practice with reasonable skill and safety to patients due to her history of a recent,*
14 *significant psychotic mental disruption, herself reported diagnosis of manic*
15 *depressive illness and her non-compliance with treatment.*”

16
17 23. The defence instructed Dr Jose Aldrich in place of Dr Lind Cox. Dr Aldrich gave
18 oral evidence via video-link. I also heard oral evidence from Dr Yancey and from
19 Mr Meadors, via video link⁵.

20
21 24. The hearing of their evidence occupied the court for four days from 13th to 19th
22 October 2019. Thereafter, both Mr Moran and from Mr Tonner served
23 comprehensive and helpful written submissions, for which I am grateful. I reserved
24 judgment in order to reflect upon everything that had been placed before me, and to
25 reconsider the substantial volumes of documentary evidence in the light of the

⁵ I note here that in my earlier ruling I concluded that whilst the law did not permit Mr Meadors to give evidence by video-link at his trial that statutory prohibition did not apply to pre-trial applications, which I hold this to be.

1 detailed oral evidence and written submissions. My apologies are due to the parties
2 and unreservedly given for the considerable delay in providing this judgment.
3 Some, but by no means all, of that delay has been occasioned by the restrictions
4 imposed by reason of the Covid-19 pandemic. For a matter of months I was unable
5 to travel to obtain my original notes of the hearing – essential material to assist me
6 in arriving at my conclusions.

7
8 25. Notwithstanding the order suspending her licence to practice medicine, the defence
9 urge me to take into account and rely upon the two reports from Dr Cox, the
10 substantial volume of supporting material she has produced, and her conclusions.
11 In the course of his evidence to me, Mr Meadors expressed the view that she was
12 and remained “a very brilliant person.” I have taken account of Dr Cox’s reports as
13 part of the evidence placed before me. although I bear in mind, amongst other
14 factors, the State of Florida Department of Health’s findings of fact when deciding
15 upon the weight I can properly attach to her reports and conclusions. Her reports
16 are dated 8th October 2018 and 27th of March 2019. At the time that she wrote her
17 first report, staff at her practice had stopped scheduling patients because of their
18 concerns and she was in breach of an order that she submit to a mental and
19 physical health examination. Three weeks after Dr Cox completed her second
20 report, a Dr Abramson concluded that she was “*unable to practice medicine with*
21 *reasonable skill and safety to patients without monitoring by the Professionals*
22 *Resource Network, due to bipolar disorder, and lack of insight into her illness and*
23 *her non-compliance with treatment.*”



1 26. I do not attempt any lengthy summary of the reports and other material before me
2 from the legion of medical experts who have, for one reason or another, become
3 involved in this matter of Mr. Meadors’ absence from the jurisdiction since I do not
4 regard that as either helpful or necessary. I will be making reference to only a few
5 of the documents before me, although I have, of course, considered each and every
6 one of them.

7
8 27. Prior to his arrest in July 2017, it is clear that Mr Meadors had had a problem with
9 his eyesight. He had visited Dr Capone in March 2017. He was otherwise in robust
10 good health. According to Dr Parzynski, in her report dated 16th April 2018:

11 *“This is a 53 year old man who, until early 2017, was playing hockey twice*
12 *weekly for years, with young men more than half his age. Mr Meadors had*
13 *taken NO prescription medications for ANY Health disorders until earlier this*
14 *year”* (her emphasis).

15
16 28. On 20th December 2017, Dr Jacob Smith, an ophthalmologist based in Grand
17 Cayman noted a “serious, relentless and relatively rapid deterioration” of his
18 vision. Investigation and treatment of that was not, he said, available in this
19 jurisdiction. He concluded in dramatic terms:

20 *“I understand that Mr Meadors is currently on bail and his travel restricted. It*
21 *is clear to me that his vision is deteriorating and further investigation and*
22 *treatment is urgently indicated. I am concerned that if he is unable to receive*
23 *the investigation and treatment he needs, his travel restriction may be*
24 *responsible for his permanent and irreversible blindness.”*



1 It is then unsurprising that an application to vary bail so as to permit him to leave
2 the jurisdiction was not opposed.

3
4 29. Once back in the USA, Mr Meadors embarked upon a series of visits to medical
5 experts. He and his wife have compiled what he describes as a “living diary” which
6 details the visits he has made to obtain medical treatment and opinion from January
7 2018 to the end of 2019. It is, on any showing, an extraordinary document. It
8 chronicles an extensive history of visits, referrals and further referrals for opinions,
9 examination and treatment from a seemingly endless succession of practitioners,
10 sometimes on an almost daily basis. Mr Meadors is referred by one consultant to
11 another. Further tests and investigations are suggested. Consultants practising in
12 various disciplines come and go. Mr Meadors was asked about that in the course
13 of his evidence, but I am still at a loss to find and logical reason why so many
14 experts have become involved and why few seem to stay with his medical case for
15 long.



16
17 30. When he first consulted Dr Parzynski in April 2018, he was taking “very potent
18 anti-inflammatory” medication – “one usually recommended when there is nothing
19 else to try.” She noted:

20 *“He had a multitude of complaints related to numerous bodily systems and*
21 *processes. It is unusual that his previous visits to various specialists in*
22 *different fields of medicine have not improved his many conditions despite the*
23 *many therapies and interventions utilised. In fact his physical health has only*
24 *continued to deteriorate since November 2017, when a majority of his signs*
25 *and symptoms began to worsen. Mr Meadors has previously consulted with*
26 *cardiologists, rheumatologists, ophthalmologists and retinal specialists both in*

1 *the Cayman Islands and in the continental U.S. His conditions include angina*
2 *pectoris, questionable lupus, inflammatory hypertension, legal blindness in his*
3 *left eye, deteriorating vision in his right eye, autoimmune dysfunction, pre-*
4 *hypertension, adrenal stress, torn cruciate ligament in his right knee, vitamin*
5 *and mineral deficiencies, muscle weakness, significant neurological deficits*
6 *and dyspnoea.”*

7
8 31. I should note here that in the course of his evidence, Mr Meadors disputed having
9 told her that he may suffer from lupus. She suggested further referrals, to an
10 immunologist and a neurologist, since she concluded he was suffering from “an as
11 yet undefined autoimmune disorder.” For reasons not clear to me, Dr Parzynski did
12 not stay with the case for long. Mr Meadors’ explanations in the course of his
13 evidence that he dispensed with her services and moved on because she lacked
14 “treating ability” or that he felt her report contained insufficient detail, were
15 unconvincing. Mr Meadors told me that he had originally consulted her since there
16 had, hitherto, been no-one in overall charge of his case, no-one co-ordinating the
17 various specialists instructing. That I am bound so say strikes a chord with me.
18 There seems to me to have been an urgent need for that, since co-ordination was,
19 until then, lacking. Mr Meadors told me that it was for the same reason that he
20 later went to Dr Cox.



21
22 32. Dr Cox begins her first report (dated 8th October 2018) as follows:

23 *“David Meadors, a 53-year-old man, has an autoimmune condition known as*
24 *Cogan’s syndrome which is classified by the National Institutes of Health as a*
25 *rare disease. Cogan’s syndrome is characterised by hearing and vision loss*
26 *and cardiac complications due to an autoimmune response against the blood*
27 *vessels that supply blood to the heart and the otic and optic systems. Cogan’s*

1 *syndrome causes the body's immune system to unpredictably attack various*
2 *organ systems, including, without limitation, the blood vessels, eyes, ears and*
3 *heart. Primarily this condition involves an autoimmune response against blood*
4 *vessels, which can cause permanent blindness, total loss of hearing, heart*
5 *failure and a potentially fatal ruptured aortic aneurysm."*

6
7 33. Dr Cox continues:

8 *"For the reasons explained herein, Cogan's syndrome is potentially life-*
9 *threatening and in Mr Meadors' case will require ongoing, coordinated*
10 *treatment by a multidisciplinary team of medical experts in the specialised*
11 *fields of, as a minimum:*

12 *x. Immunology*

13 *xi. Rheumatology*

14 *xii. ophthalmology, including a retinal specialist and neuro-*
15 *ophthalmologist*

16 *xiii. otolaryngology*

17 *xiv. vascular surgery*

18 *xv. neurosurgery and*

19 *xvi. cardiology including a cardiothoracic surgeon.*



20
21 *This team of experts will require state-of-the-art diagnostic, surgical and*
22 *imaging equipment and other therapeutic interventions that are only available*
23 *in tertiary care centres."*

24
25 34. Her understanding was that such specialised care is not available in this
26 jurisdiction.

27
28 35. Dr Aldrich was instructed once the difficulties with Dr Cox became known, to give
29 oral evidence at the hearing of this application. In the penultimate paragraph of his
30 first report, dated 30th September 2019, he concludes:

31 *"I totally agree that Mr Meadors must not be taken away from his present team*
32 *of specialists due to the rapid progression of his illness requiring tertiary care*
33 *centres and specialists presently not found in the Cayman Islands."*



1
2
3 He adds, joining the general theme that has characterised Mr Meadors’ treatment
4 by the medical profession over the best part of two years, that he “*should be further*
5 *examined and, if needed, include other experts in this case to treat and/or manage*
6 *other diagnostic problems, should they arise.*”

7
8 36. Whereas Dr Cox appears, at the start of her first report, to have come to a definite
9 diagnosis of Cogan’s syndrome, Dr Aldrich describes it as a “possible diagnosis
10 and evaluation.” If, as Dr Aldrich and all other experts who have considered it
11 (rather than accepted it as a given) do, one discounts Cogan’s syndrome as a
12 confirmed diagnosis, despite the plethora of experts who have considered Mr
13 Meadors over a two-year period, no firm diagnosis has, it seems, been possible and
14 there remains no clear understanding of what was causing the multiple serious
15 symptoms of which Mr Meadors complains. Nevertheless, Dr Aldrich concluded
16 that he was:

17 “...*in need of further aggressive treatment in order to avoid further*
18 *deterioration and progression of illness.... The prior illness could, without*
19 *doubt, progress to totally disabling joint deformity, as well as blindness and*
20 *decreased hearing and decrease gait stability as per consultants.*”

21
22 37. I was not assisted to any significant degree by Dr Aldrich. The objectivity that a
23 court has a right to expect of a professional witness was notably absent. He became
24 aggressive when his evidence was tested by cross-examination. He was at pains to
25 tell me that he was a very experienced rheumatologist: “*I think I am the oldest*
26 *practising rheumatologist and I have a very good reputation.*” One of the
27 difficulties about his position, it seems to me, was that whilst he had long
28 experience in rheumatology, he had no expertise – and was thus reliant on the

1 opinions of others in any of the other areas in which Mr Meadors alleged a
2 significant deterioration of function.

3
4 38. Dr Aldrich's attitude towards Dr Cox was confused. Fundamentally, he did not
5 accept her diagnosis of Cogan's syndrome. He described her report as "well
6 argued" but said that he had concerns about her role in Mr Meadors' treatment. He
7 appeared to regard himself as a defence advocate whose function it was to argue
8 Mr Meadors' case, rather than to assist the court with his knowledge, experience
9 and expertise. His evidence was in too many areas inconsistent and unsatisfactory.
10 By way of example, one of the reasons he urged that Mr Meadors could not attend
11 his trial was the lack of proper medical facilities although conceded that, and "*I did*
12 *not conduct any independent evaluation of the facilities available in the Cayman*
13 *Islands.*" He stressed that it was vital that Mr Meadors must not be taken away
14 from his treating team, although when pressed said, "*I don't know if anyone other*
15 *than Dr Urdanetta is treating him.*"

16
17 39. The low point of his evidence was his frankly absurd suggestion that Mr Meadors
18 should not leave Florida even to visit the neighbouring state of Georgia, and by the
19 same token that his treating team (although not aware if this consisted of anyone
20 other than Dr Urdanetta) should not go on vacation lest they were needed to
21 respond urgently to an emergency situation.

22
23 40. In all these circumstances, I do not feel it right to place any substantial weight upon
24 Dr Aldrich's evidence.





1 41. Dr Yancey is a consultant in infectious diseases. Like Dr Aldrich, there are other
2 relevant areas to be considered that lie outside his speciality and expertise, as he
3 readily accepted. He had not examined Mr Meadors and did not feel the need to do
4 so in view of the information contained in the reports and medical notes made
5 available to him. He emphasised that it was not his role or function to make a
6 diagnosis, but rather to ascertain and comment upon whether there was any
7 objective material to support Dr Cox’s and/or Dr Aldrich’s views and whether
8 there was any support for the proposition that Mr Meadors was unable to attend his
9 trial in this jurisdiction.

10
11 42. I found Dr Yancey’s evidence to be very much more balanced and objective and
12 thus very much more helpful.

13
14 43. Dr Cox had mentioned in her report that Cogan syndrome was rare. Dr Yancey told
15 me just how rare – less than 300 cases have been reported, worldwide, since 1945.
16 I accept his evidence that there is virtually no support, and, in his words “*only a*
17 *smidgen of evidence*” for the suggestion, still less the diagnosis, of Cogan’s
18 syndrome. The literature suggests that it most often affects young adults (those in
19 their 20s and 30s). The clinical hallmarks, Dr Yancey explained, are interstitial
20 keratitis, vestibulo-auditory dysfunction and vasculitis. He commented that “*not a*
21 *single one of these criteria is confirmed in all the specialist visits he has*
22 *undertaken.*”

23
24 44. Dr Yancey highlighted a number of apparent inconsistencies emerging from the
25 material available for this application. By way of example, on 1st February, 2018,
26 Mr Meadors attended the Mount Sinai hospital Emergency Room, suspecting that
27 he was suffering a heart attack. A series of letters followed advising that he should
28 not travel until cardiac evaluation was complete. As Dr Yancey said, that



1 evaluation was apparently still not completed well over a year and a half later. On
2 19th September 2019 Dr Heimowitz, a cardiologist at Mount Sinai wrote that since
3 February 2018, Mr Meadors “*has gone through numerous testing evaluations at my*
4 *direction as well as testing from several other specialists.*”

5
6 45. It is difficult to understand why cardiovascular evaluation could take so long. One
7 would surely expect a greater urgency about such matters, especially when viewed
8 against the background of Mr Meadors’ visit to the emergency room with,
9 according to Mr Meadors, a suspected heart attack, and the priority usually given,
10 for obvious reasons, to matters relating to one’s heart.

11
12 46. A letter from Mount Sinai dated 1st February 2018 – the date of his admission and
13 discharge (on the evidence, some four or so hours later) – confirms the advice not
14 to travel until evaluation is complete.

15
16 47. Dr Heimowitz was writing to the same effect in March 2018, April 2018 and
17 September 2019. One of the matters that seemed to weigh with Dr Heimowitz in
18 September 2019 was that “*he has been diagnosed with a rare autoimmune*
19 *disorder, Cogan syndrome.*” That information can only, realistically, have come
20 from Mr Meadors and was accepted at face value by Dr Heimowitz.

21
22 48. Dr Yancey felt that Mr Meadors has encouraged every doctor he has seen to
23 consider Cogan’s syndrome. In his words “*he has put that bug in everyone’s ear.*”
24 He made the obvious point that despite dire predictions from a number of medical
25 experts, no major adverse event requiring the sort of treatment said not to be
26 available in this jurisdiction had in fact come to pass. Whereas others had
27 described rapid deterioration of hearing and eyesight, Dr Yancey’s reading of the

1 material available was that it was gradual, which pointed away from any
2 autoimmune cause.



3
4 49. Mr Meadors gave evidence to me over the course of two days. He told me that he
5 was relieved when Dr Cox told him that he had Cogan's syndrome, since at last he
6 had a diagnosis for the various physical problems he had been experiencing.
7 Despite everything, he said that he was 90% sure that he suffered from Cogan's
8 syndrome. He said:

9
10 *"No one has told me that I definitely don't have Cogan's..... Even if I don't*
11 *have Cogan's syndrome, something is attacking my body. I have a serious*
12 *condition they can't find. It's scary and I need to find the answer."*

13
14 What is clear is that, for whatever reason, Mr Meadors' pre-occupation with his
15 health and the medical profession has become an obsession.

16
17 50. In many ways, I found his evidence inconsistent and, I regret to say that there were
18 occasions on which I am sure Mr Meadors was lying to me and to others. For
19 example, several of the medical reports I have seen include false accounts of
20 events, which, realistically, can only have come from Mr Meadors. By way of
21 illustration, Dr Cox notes in a consultation report dated 31st August 2018 that:

22 *"He was placed in a Cayman Island[s] jail for six days, which by description*
23 *appears to be in a deplorable state in terms of a health hazard: no roof, no*
24 *water running water, no healthcare..... He voluntarily returned to the*
25 *Cayman Islands to face trial and was placed on house arrest in a (per his*
26 *description) equally deplorable (as the jail) facility for seven months."*



1 51. Mr Meadors denied that he had said anything of the sort to Dr Cox – and the
2 account given was untrue. It is difficult to fathom from where, other than from Mr
3 Meadors, this account could have originated. Had it stood alone, given the
4 symptoms her staff had reported that she was exhibiting at the time, I would have
5 given Mr Meadors the benefit of the doubt. But it does not stand alone.

6
7 52. Dr Davis notes in one of her reports (p. 237) that Mr Meadors told her he had
8 recently passed his driver’s license vision test, which she noted as inconsistent with
9 his reports to her about his eyesight and his reported “legal blindness” in his left
10 eye. Mr Meadors told me that he does still drive, although avoided night-time
11 driving wherever possible. Mr Meadors denied that he had undergone a driving
12 licence vision test and denied that he had said this to Dr Davis.

13
14 53. I am also satisfied that he lied deliberately to Justice Carter of Grand Court of the
15 Cayman Islands in the course of a hearing on 13th April 2018. He accepted that he
16 had told the Judge that he had recently suffered two mild heart attacks. He agreed
17 in evidence that no one had told him he had suffered a heart attack. He told me in
18 his evidence that he had not read the warning literature about Rituxan, the drug he
19 is presently prescribed, explaining that he “*had started but it so worried me that I*
20 *stopped.*”

21
22 54. As I have already said, Mr Meadors is obsessed with his health and every detail of
23 it, whether by reason of genuine concern or in order to generate evidence for this
24 court. I simply do not believe that a man who, in his living diary, notes every
25 appointment for every procedure no matter how relatively trivial (e.g. “hearing aid
26 adjustment”) would not read every detail of a new drug he had been prescribed and
27 which, according to him, had been responsible for debilitating side effects. For the



1 same reasons, I do not accept Mr Meadors' evidence to me that "*there are*
2 *probably appointments I've attended that I haven't put in the living diary.*" Mr
3 Meadors was anxious to emphasise at every turn how very unwell he was.

4
5 55. The fact that Mr Meadors has lied to me and to others is far from being decisive of
6 the application I have to determine. But, I add, that I do regard *that* behaviour as
7 both significant and informative. I am entitled to ask why Mr Meadors has told
8 lies. I remind myself that people can lie for a variety of reasons – not all lies are
9 either significant or sinister. For the most part, Mr Meadors' lies are effectively
10 gross exaggeration, in order to give the impression that things are very much worse
11 than they are. His description of the conditions which he had to endure whilst in
12 this jurisdiction is the most obvious example.

13
14 56. I have to consider the cumulative effect of his evidence. It is a given fact that at the
15 time he gave evidence before me, the Defendant was 58 years of age with no
16 convictions recorded against him. Despite his good character, which I bear well in
17 mind, he is a man capable of lying to the court and to medical experts. The
18 examples of his exaggeration lend colour and support the theme I detect running
19 through the material placed before me – the exaggeration of symptoms and
20 disabilities from which he suffers.

21
22 57. It is clear that his hearing has deteriorated to a significant degree and that his
23 eyesight is not what it was. He also suffers from rheumatism and joint pain.
24 However, there is no cogent evidence before me to support the suggestion made
25 that these problems are evidence of, or are caused by, an autoimmune disorder. I
26 am not satisfied, on a balance of probabilities that Mr Meadors suffers from
27 Cogan's syndrome or any other autoimmune disorder.



1 58. I mentioned earlier that it was hard to understand why cardiac investigations
2 prompted by a visit to the Emergency Room on 1st February 2018 were still not
3 complete in September 2019. I bear in mind Mr Yancey’s evidence that any
4 competent co-ordinating physician would have ensured that all investigations into
5 Mr Meadors’ various complaints were completed within 3 months. The delay in
6 completing cardiac investigations is explainable only, I conclude, on the basis that
7 Mr Meadors is deliberately delaying these investigations and periodically
8 requesting letters advising against travel whilst investigations continue. The tone
9 of the “cardiac evidence” is set at the outset – it can only be, as Dr Yancey
10 observes, that the letter from Mount Sinai Emergency Room written on the date of
11 his admission and discharge, confirming that he should not travel, was written at
12 Mr Meadors’ request, when, one would have thought that he had other priorities,
13 particularly if he thought, as he told Justice Carter, that he had suffered two minor
14 heart attacks.

15
16 59. I have no doubt whatever that, understandably, Mr Meadors is fearful of returning
17 to this jurisdiction as he is fearful of conviction upon the remaining counts of this
18 indictment and fearful of the sentence that might be imposed, whether in respect of
19 counts 1 and 2 alone, or, in the event of adverse verdicts, all five counts.

20
21 60. There is little, I conclude, that Mr. Meadors would not do to avoid returning to the
22 Cayman Islands. He has, I am satisfied, resolved to prolong and complicate
23 medical investigations and opinions for as long as he can, and by whatever means
24 are reasonably available, including gross exaggeration of symptoms, delaying
25 procedures that might aid diagnosis, and, changing practitioners. For as long as
26 medical practitioners are prepared to (a) facilitate further delay in arriving at any
27 firm conclusion(s) and (b) certify that he remains unfit to travel to or remain in this



1 jurisdiction, the temptation for Mr Meadors to continue in the same vein will prove
2 irresistible. The observations of two practitioners bears repeating:

- 3
4 i. Dr Parzynski, in April 2018: *“It is unusual that his previous*
5 *visits to various specialists in different fields of medicine have*
6 *not improved his many conditions despite the many therapies*
7 *and interventions utilised”*; and
8 ii. Dr Yancey’s evidence that it should take no longer than three
9 months to arrive at a diagnosis and proper treatment plan.

10
11 61. I then return to the first of Mr Moran’s questions: Does the medical evidence
12 before the court objectively provide good reason for the defendant’s absence from
13 any trial? In my judgment it does not.

14
15 62. On all the evidence and material placed before me, the defence has failed to
16 establish, on a balance of probabilities, that there is objectively good reason for Mr
17 Meadors’ absence from any trial. I am not satisfied that his medical condition
18 prevents him from travelling in safety to this jurisdiction. I am not satisfied that
19 this jurisdiction cannot provide him with such medical care as he may reasonably
20 need.

21
22 63. The second question posed by Mr Moran is: Can the defendant’s evidence (that he
23 believes the medical evidence does provide good reason) nevertheless make his
24 absence involuntary?: It is convenient to consider that question in conjunction
25 with the test Mr Tonner contends is appropriate: *“In the present [application] it is*
26 *submitted that the defendant must prove no more than that he believes that his*
27 *return to the Cayman Islands poses a risk of serious physical injury to himself and*
28 *that such belief is reasonably held.”*

1 64. I have considered what Mr Meadors believes and whether his beliefs are
2 reasonable. This can of course only be a matter of reasonable inference from all the
3 evidence and material. I remind myself that I should draw a sharp distinction
4 between reasonable inference, which is permissible and speculation, which is not.
5 As I have said, I am sure Mr Meadors is very frightened indeed by the prospect of
6 returning to this jurisdiction - both to face trial and to face sentence. That, I am
7 satisfied, has been the driving force behind his behaviour and his developing
8 obsession with matters medical.

9
10 65. For all the reasons given above, I am satisfied, on a balance of probabilities that he
11 does not, in reality believe that a return to this jurisdiction would pose any serious
12 risk to his health or safety.

13
14 66. Accordingly, it follows that in my judgment, Mr Meadors' refusal to attend at any
15 trial is and would be voluntary absence.

16
17 67. I then have to consider and exercise the discretion which rests with the court in
18 these circumstances. Amongst the matters I have to take into account are those
19 mentioned in *Jones*⁶ as follows:

- 20 a. The nature and circumstances of the defendant's behaviour in absenting
21 himself from the trial....and in particular, whether the behaviour was voluntary
22 and so plainly waived the right to be present;
- 23
- 24 b. Whether an adjournment would resolve the matter;
- 25
- 26 c. The likely length of such adjournment;
- 27
- 28



⁶ *Supra*



- 1 d. Whether the defendant, though absent, wished to be represented or had waived
2 his right to representation;
- 3
4 e. Whether the defendant's representatives were able to receive instructions from
5 him and the extent to which they could present his defence;
- 6 f. The extent of the disadvantage to the defendant in not being able to present his
7 account of events;
- 8
9 g. The risk of the jury reaching an improper conclusion about the absence of the
10 defendant;
- 11 h. The general public interest that a trial should take place within a reasonable
12 time;
- 13
14 i. The effect of the delay on the memories of witnesses;
- 15
16 j. Where there was more than one defendant and not all had absconded, the
17 undesirability of having separate trials.
- 18
19 68. My responses to the foregoing are as follows:
- 20 a. I am altogether unable to say with any certainty when it was that Mr Meadors
21 resolved to manipulate matters to his advantage, whether from the outset or
22 only once back in Florida. That does not matter. I am satisfied he is now
23 deliberately absent and that he could reasonably return but has decided not to;
- 24 b. An adjournment would not, I am satisfied, alter Mr Meadors' attitude to this
25 court;
- 26 c. (N/A based on my response at b)
- 27 d. Mr Tonner indicated that Mr Meadors would wish to be represented and has
28 and can give full instructions to his attorneys.
- 29 e. (See d.)



- 1 f. Although Mr Meadors gives a full account of matters in his police interviews,
2 he will, I recognise, be at a disadvantage in not being able, as a matter of law,
3 to give oral evidence as he has indicated he would wish to do. However, given
4 my conclusions above, this is a situation of his own making, and he could
5 remedy that disadvantage by attending at his trial.
- 6 g. The jury will of course be given an appropriate direction about an absent
7 defendant and I can only work upon the basis that a jury will comply with
8 directions given.
- 9 h. The events giving rise to this prosecution took place the best part of three and a
10 half years ago. The delay is considerable and the delay from January 2018 to
11 November 2019 is attributable to the actions of Mr Meadors. Whenever a
12 defendant decides to abscond, a substantial delay is likely to follow.
- 13 i. Mr Tonner concedes that this is not a case which relies to any extent upon the
14 recollection of witnesses.
- 15 j. There are of course no co-defendants in this case.

16
17 69. There is in my view, no compelling reason, in the circumstances as they now are,
18 why the trial of counts 3, 4 and 5 should not proceed in the absence of Mr Meadors
19 and I give leave accordingly.

20
21 70. I have, of course, reached my conclusions above strictly in the exercise of my
22 judicial function. I have weighed the evidence placed before me and answered the
23 questions the law asks of me, applying the appropriate burden and standard of
24 proof. I have exercised the court's discretion in accordance with judicial principles.
25 The future of this case, and particularly whether there is a trial of counts 3, 4 and 5
26 (in the absence of Mr Meadors, assuming he has no change of view) is now a

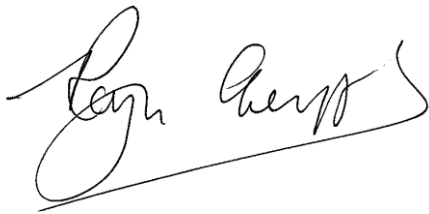
1 matter for the prosecution to consider.

2
3 71. It will no doubt be considered appropriate to review this case in the light of all that
4 is now known, and in particular in the light of the findings I have made above. A
5 trial will of course add to the delay.

6
7 72. Mr Meadors pleaded guilty to counts 1 and 2 a long time ago and a sentence for
8 those offences will follow. It may be that there is room here for a pragmatic view
9 to be taken. But I emphasise, that is not a matter for me, but for the exercise of
10 prosecutorial discretion.

11

12 **Dated this the 25th September 2020**



13

14

15

16

17

18

Justice Roger Chapple
Acting Judge of the Grand Court