

Edward Fitzgerald CBE KC



Call: 1978

Silk: 1995

Email: m.butchard@doughtystreet.co.uk

Profile

Edward Fitzgerald KC was named Human Rights and Public Law Silk of the Year in the **Chambers Bar Awards 2013**, Legal Aid Lawyer of the year in 2009, and Silk of the Year award 2005. In 1998 he was given the Times Justice Human Rights Award. In 2008 he was awarded the CBE for services to human rights. He specialises in criminal law, public law, judicial review and international human rights law.

Edward Fitzgerald KC is a highly acclaimed silk who offers vast experience across the fields of public, criminal and international human rights law. Edward is ranked in the highest Bands of each of his fields in the **Chambers and Partners 2023** tables. He is Band 1 in **Civil Liberties and Human Rights, Administration and Public Law** and **International Human Rights Law**. He is listed as a 'star individual' in the area of **Crime** and **Extradition** in 2023.

He is described in the 2023 Guide as "*one of the leading silks of his generation*". As "*a formidable opponent*" who is "*so tough that he can make the totally unpalatable palatable*". Edward is regularly called upon to handle the most significant, highly publicised cases. He appears routinely before the Court of Appeal and the Supreme Court; the Privy Council and

the ECtHR. He is highly regarded for his work on behalf of vulnerable individuals.

Edward has represented a number of high-profile, public figures including **Silvio Berlusconi** in the European Court of Human Rights, **Boris Berezovsky** and **Akmed Zakaev** of Chechnya and **Ejup Ganic** of Bosnia in their respective fights against extradition to Russia and Serbia. Recently he represented **Julian Assange** in obtaining the ruling of District Judge Baraitser to refuse Julian Assange's extradition to America on January 4th 2021; and at the High Court where that ruling was reversed. He successfully represented **Gary McKinnon** (2012), **Lauri Love** (2018), **Robert McDaid** (July 2020) and **Corey De Rose** (2022) in their fight against extradition.

He has also recently obtained extradition rulings against the United States in the Cayman Islands in the case of **INM** (March 2020) and the British Virgin Islands in the case of **Harrigan & Hodge** (2018) to refuse extradition to the United States. He also successfully represented **Gabriel Popoviciu** in his fight against extradition to Romania, on the basis that the Judge who convicted him was not independent.

Edward represented Mrs **Elgizouli** in her challenge to the Home Secretary in 2020 to ensure that he did not provide mutual assistance in respect of her son to the United States without a death penalty assurance from the US.

In the past, Edward has conducted many successful criminal appeals against miscarriages of justice. He also secured a series of important rulings from the Privy Council striking down the mandatory death penalty in Caribbean jurisdictions, such as St Lucia, Belize, St Kitts and the Bahamas, in the cases of **Hughes, Reyes, Fox** and **Bowe**. He also recently represented Mr **Chandler** in his appeal to the Privy Council against the mandatory death penalty in Trinidad.

He also represented the appellants in recent successful conviction appeals to the Privy Council from the Caribbean including the cases of **Stubbs** in 2018 and **Bain** in 2020 from the Bahamas.

In December 2018, Edward represented Olivier **Bancoult** and the **Chagos Islanders** in the High Court and before that in the Supreme Court in the well-known case of **Bancoult** No. 4 in 2016. In February 2019, Edward successfully represented **Chantelle Day** and **Vickie Boddan Bush** in their landmark constitutional motion in front of the Chief Justice to overturn the ban on same-sex marriage in the Cayman Islands. Although part of the judgment was set aside in the Court of Appeal, and the Privy Council, the Appellant's had their right to civil partnership recognised. This has led to an amendment of the law in the Cayman Islands in the summer of 2020.

Recent Cases

During the last year, Edward has been further involved in a number of important, high-profile cases both nationally and internationally.

- **Julian Assange v Government of the United States and Secretary of State for the Home Department. – Renewal Hearing.**

Edward represented Mr Julian Assange in his renewed application to the High Court for leave to appeal his extradition to the USA.

Making submissions on the Treaty point, Edward argued that Mr Assange was being prosecuted for political offences in breach of the express prohibition on extradition for political offences contained in Article 4 of the UK-US Extradition Treaty. Permission had previously been refused by Mr Justice Swift in 2022 on the sole ground that the Treaty did not give right to justiciable rights. Edward submitted that this approach is wrong in law and that extradition in breach of this fundamental Treaty protection would violate Article 5 of the European Convention and constitute an abuse of process.

Edward further argued that the sentencing process gave rise to the risk of a flagrant denial of justice contrary to Article 6. In addition, there were grounds for believing that Mr Assange would be denied his rights under the First Amendment on the basis of his alien status, constituting a real risk of discrimination which justifies refusal of extradition under s.81(b) of the Extradition Act 2003. Finally, Edward that fresh evidence raised by a Yahoo News investigation and the testimony of a protected witness in separate proceedings of a plot to kidnap and/or assassinate Mr Assange raised the risk of a violation of Articles 2 and 3.

The permission hearing was heard on 20 and 21 February. Judgment on leave is awaited.

- **R (Quaye) v Secretary of State for Justice [2024] EWHC 211 (Admin).**

Edward successfully represented the claimant in obtaining a declaration of incompatibility in respect of s.128 of the Police, Crime, Sentencing and Courts Act 2022. It had been previously recognised that the sentence of HMP detention contains a duty to keep the provisional minimum term fixed by the sentencing judge under review and that a detainee can subsequently apply for a review of that minimum term in light of exceptional and unforeseen progress as they mature. S.128 purported to remove the right to a review of the minimum term for all those child offenders who had happen to have reached their 18th birthday on or before their sentencing hearing.

Leading Pippa Woodrow of chambers, Edward argued that the removal of the Claimant's right to seek a minimum term review was discriminatory (for the purpose of Article 14, within the ambit of Article 5) because a difference in treatment between child offenders subject to HMP detention, based solely on age at the date of sentencing could not be objectively justified.

Further removal of an inherent feature of the sentence, and a safeguard ensuring detention remained to longer than necessary having regard to the detainees progress, rendered the detention arbitrary for Article 5 purposes. The Court robustly endorsed the arguments under both Articles 5 and 14 in a very strong judgment, and granted a declaration that the relevant provisions are incompatible with Articles 5 and 14.

- **Bertino v Public Prosecutor's Office, Italy [2024] UKSC 9.**

Edward Fitzgerald, leading Graeme Hall of chambers, acted for Mr Salvatore Bertino in one of two cases in which the Supreme Court considered the right to a retrial for the first time. The Court heard argument on the circumstances in which a person convicted in their absence in a foreign jurisdiction may be extradited to that country.

The Supreme Court held that for a person to deliberately absent himself from his trial, he must unequivocally waive, in a knowing and intelligent way, his right to attend trial. In so doing, the Supreme Court overturned the principle that had developed in English caselaw since 2016 that a person will be deliberately absent where he demonstrates a “manifest lack of diligence” which results in his ignorance of the trial.

- **Attorney General v Shannon Tyreck Rolle and 4 others [2023] UKPC 13.**

Edward led the team acting on behalf of the five respondents in this appeal, in which the Privy Council confirmed that Article 6 of the Constitution of the Bahamas confers citizenship rights of people born in the Bahamas regardless of the marital status of their parents. The position advanced by the Attorney General, namely restricting the citizenship of ‘illegitimate’ children, was dismissed by the Privy Council as it would have led to anomalous and discriminatory results. The Board held that the consequence of upholding such a submission would be that “no illegitimate child born in The Bahamas of Bahamian parents would have Bahamian citizenship by virtue of Article 6, notwithstanding the Bahamian citizenship of both parents.” and that the “suggested reading contended for by the Attorney General is cumbersome and faintly absurd.”

The judgment paves the way for the Government to follow through with their intention to introduce legislation to allow Bahamian men and women to pass on citizenship in all circumstances, regardless of marital status.

- **Murphy v Parole Board [2023] EWHC 945 (Admin).**

Edward Fitzgerald KC acted for Mr Murphy in this case which involved a challenge to the new guidance issued to the Parole Board for determining parole eligibility in the case of fixed-term prisoners and also the right to an oral hearing at parole reviews. The High Court upheld Mr Murphy's challenge that he was unlawfully denied an oral hearing as part of his parole review.

They held that it was no bar to this argument that he had not specifically asked for an oral hearing since it was the Parole Board's duty to consider whether an oral hearing was necessary in the interests of justice. In this case, the High Court held that an oral hearing was necessarily called for.

- **United States of America v Julian Assange [2021] EWHC 3313 (Admin).**

Edward represented Mr Julian Assange in resisting the appeal by the United States Government against extradition to the US. This followed initial success in the Magistrates Court. In these current proceedings, the team, led by Edward, successfully defended the District Judge's findings on the legal test she applied in determining whether extradition would be oppressive under Section 91 grounds. The Court found that the District Judge had correctly applied the test and that she was right to find extradition oppressive by reason of Mr Assange's mental health and the impact extradition to the US would have upon him. However, the Court ruled against Mr Assange based on the assurances provided by the United States. These assurances were only provided to the Court after the trial at first instance had concluded. The case is ongoing as Mr Assange pursues his appeal against the current order for his extradition on other grounds.

- **The Queen on the application of Paul Cleeland v Criminal Cases Review Commission [2022] EWCA Civ 5.**

Edward Fitzgerald QC represented Mr Paul Cleeland before the Court of Appeal and established that Judicial Review of the CCRC constituted a civil appeal, and not a criminal cause or matter.

- **Gabriel Popoviciu v Curtea de Apel Bucuresti (Romania) [2021] EWHC 1584 (Admin).**

Edward successfully represented Mr Gabriel Popoviciu, a high-profile, successful Romanian businessman, in his appeal against extradition to Romania. Holroyde LJ and Jay J described Mr Popoviciu's case as "extraordinary" and found that there was a real risk that Mr Popoviciu's conviction involved a flagrant denial of justice. This is the first time that the High Court has concluded that extradition to an EU Member State represents a real risk of a "flagrant denial" of a requested person's Convention rights.

- **Jabbir Siddiq aka Jabbir Motiwala v Government of the United States of America.**

Edward represented Mr Jabbir Siddiq in his successful appeal to the High Court against extradition. Jabbir Siddiq was charged with trafficking in drugs. There was a further allegation made that he was involved in terrorism. Mr Siddiq always maintained his innocence and

claimed that he was the subject of entrapment attempts. In the High Court his challenge was based, amongst other things, on an allegation of abuse of process and an abuse of power by the United States. Evidence was adduced of a tape recording in which the Chief Prosecution witness claimed that he had been intimidated and bribed to make a statement against Mr Siddiq. Shortly after the hearing in the High Court the US Department of Justice applied to dismiss the charges brought against Mr Siddiq in the United States and to concede the appeal. Mr Siddiq has subsequently been released and has flown back to Pakistan, a free man.

- **Inter-American Commission on Human Rights finding on Jamaica.**

Edward worked with the Human Dignity Trust, to help win a case before the Inter-American Commission on Human Rights against Jamaica. The decision condemns Jamaica for their laws criminalising intimacy for consenting men. The judgment requires the authorities to address past harms and to ensure that the persecution of the LGBT community in Jamaica comes to an end. Jamaica was found to be in violation of international law and urged to repeal homophobic criminal laws.

- **Elgizouli v Secretary of State for the Home Department. Supreme Court decision, 20 March 2020.**

Edward led the team that won the challenge to the Secretary of State's decision to provide evidence for a capital trial in the United States of the 'Beatles'. The Supreme Court upheld the challenge on the basis that the provision of evidence would facilitate the imposition of the death penalty. All the Supreme Court Judges ruled in favour of the Appellants. Lord Kerr went further and found that the provision of evidence to facilitate the death penalty was now contrary to the common law itself. At the hearing Edward argued that the 'Beatles' should be put on trial in the United Kingdom rather than the United States. The Supreme Court Judges voiced broad support for this proposition but did not decide it as it was the subject of a separate judicial review application. Iain

- **INM v United States of America and HE the Governor of the Cayman Islands. Grand Court of the Cayman Islands decision, 9 March 2020.**

Edward represented INM in his appeal to the Grand Court of the Cayman Islands against extradition to the United States. Justice Linda Dobbs ruled in favour of the Appellant on the basis that it would be unjust and oppressive to extradite him. He was facing trial in the United States on primary charges of trademark infringement and consequentially, further additional charges. Subsequently the United States prosecutors requested that the US court dismiss all the charges against INM in the interest of justice and the court so ordered.

Further

Edward also represented Jon Venables in February 2019 and successfully upheld the lifelong anonymity injunction protecting Venables contra mundum. More recently, in the case of RXG (2019), he obtained a similar lifelong anonymity injunction for a prisoner convicted of a terrorist at the age of 14.

Overview of past practice

In the past, as a criminal practitioner, Edward has featured in many of the leading cases involving high-profile defendants, extradition, appeals against miscarriages of justice, and international law.

Edward's past clients have included **Boris Berezovsky**, **Akhmed Zakayev** (Deputy Prime Minister of Chechnya), **Michael Missick** (Chief Minister of the Turks and Caicos Islands) and **Derek Schofield** (Chief Justice of Gibraltar).

Edward has been called to the Bar in numerous jurisdictions including Belize, Grenada and St Vincent and has been granted rights of audience to appear in cases in Gibraltar, Hong Kong, Trinidad and Tobago, St Lucia, Bahamas and the British Virgin Islands.

Edward has extensive experience of jury trials including the defence of the **Winchester Three**, the **Canary Wharf Bomber**, **Abu Hamza**, **Chetan Popat**, **Sara Thornton** (in her retrial). He has been involved in a number of high-profile inquests and inquiries.

He frequently appears in the Privy Council in cases involving the constitutions of the Commonwealth Caribbean, death penalty appeals, extradition, and criminal appeals and constitutional challenges, including the cases of **R v Reyes**, **R v Hughes** and **R v Fox**, which struck down the mandatory death penalty in the Eastern Caribbean and Belize.

In the field of public law he has argued many of the leading cases on inquest law, prisoners' rights, mental health law and refugee law. He has appeared before the European Court, House of Lords and Supreme Court in some of the leading prisoner's rights cases including in the cases of **R (on the application of Noye) v Secretary of State for Justice (2017)**, **Nancy Kissel v Secretary of State for Justice (2017)** and **Venables and Thompson v UK (2000)**.

Edward's clients have included **Gary McKinnon** in his fight against extradition, the **Gurkhas** in their fight for residence, the **Hillsborough victims' families**, the **family of Derek Bentley** in his successful posthumous appeal, and the **family of Private Farr** in his battle for a posthumous pardon. He represented **Janan Harb** (former wife of the King of Saudi Arabia), in her claim against the Saudi Royal Family, and has successfully defeated the claim of sovereign immunity in the High Court.

Edward has a wide-ranging practice in international law. He has won many leading cases in the European Court against the United Kingdom, Greece and Spain, including, **Abu Qatada v UK**, **Venables v UK**, **Steele and Others v UK**, **Stafford v UK**, **Scott v Spain** and **Portington v Greece**.

His practice extends to Hong Kong, Singapore and Malaysia. He successfully led the campaign to save the life of **Yong Vi Kong**, who had been sentenced to death in Singapore. He conducted the defence of **Michael Wong** in Hong Kong at first instance and successfully represented him and **Shum Chiu** in their successive appeals against their convictions in the Hong Kong Court of Appeal. He successfully represented **Lai Kan Lai** in her appeal to the Hong Kong Court of Appeal. He won the appeal of **Sam Tak Lee** in the Final Court of Appeal on a point of law concerning legal professional privilege. Finally, he represented **Nancy Kissel** in her review against the Long-Term Prison Sentences Review Board in Hong Kong.

Edward has appeared for the **Fortis Energy Inc.** at the Caribbean Court of Justice and has appeared for **Michael Ashcroft** in the Belize Court of Appeal and the Caribbean Court of Justice. He represented **Steve Ferguson** in the Trinidadian Court of Appeal in a case vindicating the appellant's right to be tried in Trinidad rather than extradited to the US and appeared for the Grenada 17 in the case of **R v Coard and Others**, both in the Privy Council and on their re-sentencing in Grenada. He also argued the case of **R v Bowe and Davis** in the Bahamian Court of Appeal and the Privy Council, which led to the end of the mandatory death penalty in the Bahamas.

In **Youssef & N2 v SSHD**, Edward and Alasdair Mackenzie represented Mr Youssef, an Egyptian former lawyer at risk of torture there on account of his political views. The Upper Tribunal had found that he was excluded from protection under Article 1F(c) of the Refugee Convention, because of his sermons and other published materials which were said to have praised Al Qaeda and its leaders and to have encouraged others to emulate them. In this case, the court held that the Tribunal had not properly addressed itself to the gravity or seriousness of Mr Youssef's individual conduct, including questions such as the reach and the audience of his published material. It therefore allowed the appeal, remitting it to the Tribunal to be reconsidered.

In December 2015, Edward successfully defeated the Rwandan government's request for extradition against the alleged genocidaire, **Celestin Ugirashebuja** on Article 6 grounds. The appeal by the government to the High Court was heard in December 2016.

In July 2016, in the case of **Marku v Nafplion; Murphy v Public Prosecutor's Office**, Edward won the appeal of two defendants against the extradition to Greece on the grounds that prison conditions were inhuman. This has effectively put extradition to Greece on hold. In July 2016, Edward represented **Shavargo McPhee** in the Privy Council in a successful

appeal against conviction on the grounds that he was subjected to prolonged periods of questioning without any legal advice or presence of a suitable adult and unexplained extended periods of time outside of his cell, rendering the confession unreliable.

In January 2018, Edward appeared in a '**revenge porn**' case in Belfast in which naked photos of a minor were being shared on Facebook. The case settled on confidential terms with an order that Facebook pay the plaintiff's costs.

In early 2018, Edward represented **Peter Morgan** in the Court of Appeal on the appeal of his life sentence for murder on the basis that the court adopted the incorrect starting point in determining the minimum term of his sentence.

Edward has given many lectures and seminars throughout the world, including Hungary, Poland, Russia, France, Hong Kong, Barbados and Belize. He is the author with Keir Starmer KC of "*A Guide To Sentencing In Capital Cases*". He is also author of the chapter on sentencing in "*Taylor on Appeals*". He was awarded an honorary doctorate by the University of Law in 2013, and is an Honorary Fellow of Corpus Christi College, Oxford.

Please contact Matthew Butchard (m.butchard@doughtystreet.co.uk) from our practice management team or email crime@doughtystreet.co.uk for further details.

Education

BA (Hons) Congratulatory First

MPhil Criminology

Qualified in New York and American Law

Languages

French

Italian

Related practice areas

Criminal Law

Criminal Appeals

Extradition

Administrative & Public Law

International Law

International Criminal Law

Actions Against the Police and Public Authorities

Professional Discipline and Regulation

Anti-Trafficking

Criminal Appeals

Edward Fitzgerald KC has a specialist practice in criminal appeals. He has appeared in a number of high-profile jury trials, including **R v Sara Thornton**, **R v Popat**, **R v Abu Hamza** and the “milkshake murder” case of **HKSAR v Nancy Kissel** in Hong Kong; and in a number of cases involving guilty pleas and mitigation such as **R v Venables**.

At the Appellant level he has been involved in numerous important and difficult cases involving miscarriages of justice, issues of provocation and diminished responsibility (such as **R v Sara Thornton**), and difficult or complex points of law in the Court of Appeal, the House of Lords and the Supreme Court.

These include:

- **R v Cleland** [2020] EWCA Crim 906
- **Bain** [2020] UKPC 10
- **Stubbs** [2018] UKPC 30
- **Maharaj (and others) v The State** [2018] C.A. Crim. 56-65/2001
- **Lester Pitman & Neil Hernandez v The State** [2017] UKPC 6
- **Shavargo McPhee (Appellant) v The Queen (Respondent) (Bahamas)** [2016] UKPC 29
- **R v Erskine** [2010] 1 WLR 183
- **R v Coutts** [2006] 1WLR 3154
- **The Michael Stone appeal** [2005] EWCA Crim 105
- **The Bridgewater Three appeal**
- **The Derek Bentley appeal** [2001] 1 Cr.App.R. 21
- **R v Cullen and Shanahan** (The Winchester Three appeal) [1991] 92 Cr.App. R. 239
- **R v Sara Thornton** [1993] 96 Cr.App. R. 112

Privy Council Appeals

Edward has a special expertise in Privy Council appeals and has argued many of the leading appeals from Commonwealth Caribbean including a series of breakthrough cases involving the death penalty.

His criminal appeal cases before the Privy Council include:

- **Bain v The Queen** [2020] UKPC 10
- **Stubbs** [2018] UKPC 30
- **Lendore** [2017] UKPC 25
- **Shavargo McPhee (Appellant) v The Queen (Respondent) (Bahamas)** [2016] UKPC 29
- **Lester Pitman & Neil Hernandez v The State** [2016] UKPC 29
- **Ramdeen v The State** [2014] 3 WLR 1523
- **Hamilton and Lewis v The Queen** [2012] UKPC 31
- **R v Trimmingham** [2009] UKPC 25
- **R v Pippesborough and Robateau** [2008] UKPC 11
- **Matthew** [2005] 1 AC 433
- **Stubbs** [2005] UKPC 2522
- **R v Benedetto and Labrador** [2003] 1 WLR 1545
- **R v Matthew** [2005] 1 AC 433
- **Reyes v The Queen** [2002] 2 AC 235
- **R v Greene Browne** [2000] 1 AC 45
- **State v Sankar** [1995] 1 WLR 194

Sentencing Appeals

Edward Fitzgerald has a special expertise in sentencing appeals and has conducted many of the leading sentencing appeals before the English Court of Appeal and the Privy Council. These cases include some of the leading cases on discretionary life sentences, sentences of imprisonment for public protection and guideline cases involving minimum periods for mandatory lifers, drug importation and sexual offences. He has also appeared recently in the sentencing appeal of **Bain** (2020) in the Privy Council; the successful sentencing appeals in **Stubbs No. 2** in the Privy Council (2020); and represented the Appellant **Cleland** in the English Court of Appeal in the case of **R v Cleland** [2020] EWCA Crim 906.

Some of the important sentencing cases he has argued are:

- **R v Coonan** [2011] EWCA Crim 5
- **R v Erskine** [2010] 1 WLR 183
- **R v Orobator** [2010] EWHC 58 (Admin)
- **R v Pedley and Martin** [2009] 1WLR 2517. On the level of risk required to justify a sentence of imprisonment for public protection.

- **R v Pyrah and Lichniak** [2003] 1 AC 903
- **R v Offen** [2001] 1 WLR 253
- **R v Mitchell** [1997] 1 Cr.App.R. (S) 90.
- **R v Richardson** [1994] 15 Cr.App. R. (S) 876.

Mitigation cases

Edward Fitzgerald has extensive experience in sentencing at first instance. He has presented the mitigation in a number difficult and sensitive cases. These include:

- **R v Venables** [2012] EWCA Crim 1653, in England
- **R v Reyes** [2002] 2 AC 235, a death penalty case in Belize
- **R v Fox** [2002] in the High Court of St. Kitts, (a death penalty case in St. Kitts)
- **R v Cannonier** [2015] in the Court of Appeal of St. Kitts (a death penalty case in St. Kitts)

Extradition

Edward Fitzgerald has been a leading extradition practitioner for the last thirty years. He is ranked 1st in **Extradition** in Chambers and Partners and has been described as “a true intellectual giant – a top-class extradition and appellate lawyer”.

He recently represented **Julian Assange** in his successful challenge to extradition to the United States before District Judge Baraitser who discharged Mr Assange on 4 January 2021. This follows on from earlier successful challenges to extradition to the United States in the case of **McDaid** in July 2020, the case of **Hodge and Harrigan** in the British Virgin Islands in June 2018 and the case of **Lauri Love** in 2018.

In the past he has represented many high-profile defendants in successful extradition battles. These include Mr **Akmed Zakayev** in his contest of extradition to Russia; **Boris Berezovsky**; **Stanley Tollman**; **Lotfi Raissi**; **Roisin McAliskey**; **Ejup Ganic** and **Gary McKinnon**. He has won numerous extradition cases against the United States, in the UK (such as **Lauri Love**), Trinidad and the British Virgin Islands (such as **Hodge and Harrigan**). Edward is currently involved in the key Romanian extradition case of **Gabriel Popoviciu**.

He has also successfully acted for numerous Russian defendants, and particularly a number of defendants involved in the **Yukos** cases. Moreover, he has been at the forefront of the development of human rights challenges to extradition including a number of recent Supreme

Court cases involving Article 6 (1); Article 5 (4) in **Pomiechowski and Lukaszewski v Poland**; and in the case of **F-K v Poland** establishing new protections under Article 8 for mothers and children facing separation as a result of extradition.

Some of his leading cases in the field of extradition include:

Marku v Nafplion Court of Appeal Greece and Murphy v Public Prosecutor's Office to the Athens Court [2016] EWHC 1801 (Admin). Edward represented two appellants in an important extradition case against the Greek government. The court held that the extradition could not take place because of the dangerous conditions in Korydallos Men's Prison and Nafplio Prison. This is an important decision because it is based on the risk of inter-prisoner violence and in that respect brings a new dimension to the directive of Article 3. This halted all extraditions to Greece.

Harkins v UK, Application no. 71537/14. Edward represented Philip Harkins in the Grand Chamber in January 2017 in challenging the decision ordering the Claimant's extradition to USA where on conviction he would serve a sentence of life without parole ('LWOP'). The Claimant contended that Florida's system of LWOP violates Article 3 and that extradition to face it was therefore prohibited by the ECHR.

Gary McKinnon. Edward Fitzgerald represented Gary McKinnon over many years in his judicial review proceedings and drafted the representations to the Secretary of State which resulted in her withdrawing the order for extradition.

Poland v F-K [2013] 1 A.C. 338. This was a successful challenge to the decision to extradite Mrs F-K. It was a historic win and is one of the very few cases in which extradition has been halted on Article 8 grounds.

Poland v Lukaszewski and Pomiechowski [2012] 1 W.L.R. 1604. This was a Supreme Court case dealing with Article 8 issues. Edward successfully represented the Appellants in a decision which established the new approach to time limits for appeal in extradition cases. It was held that the appellants had complied with the time limits by faxing the front sheet of their application to the CPS.

USA v Ferguson CV2010- 04144. This was a successful challenge to the decision to extradite Mr Ferguson to face trial on charges of conspiracy to defraud. The judge accepted Mr Fitzgerald's arguments that the Forum Conveniens for the trial of Mr Ferguson was Trinidad, not the US.

Fuller v A-G of Belize [2011] UKPC 23. One of the last appeals to the Privy Council from Belize, this case vindicated the right of persons sought for extradition to argue abuse of

process in the courts.

Serbia v Ganic, DJ Workman, 27th July 2010. This was an extradition case of a former member of the Bosnian presidency, who successfully contested their extradition to Serbia.

Rwanda v Ugirashebuja and Ors [2009] EWHC 770 (Admin). The successful appeal of Mr Ugirashebuja who was wanted in Rwanda for genocide. In 2017, Edward represented Celestin Ugirashebuja in revisiting the Rwandan government's appeal to the High Court to secure extradition of the men. The case had centred around the political regime in Rwanda, the provisions of Rwanda's Transfer Law, and the ability of the Rwandan criminal justice system to provide fair trial rights in genocide cases. The government's appeal was quashed.

United States of America v Stanley Tollman [2008] EWHC 184 (Admin). This was a successful ruling against the extradition of Stanley Tollman on grounds of oppression before the District Judge following the remittal of the case from the High Court.

Federal Republic of Germany v Roisin McAliskey Recorder of Belfast, 27th November 2007. The successful appeal against extradition to Germany on terrorist charges of Roisin McAliskey, the daughter of Bernadette McAliskey.

R (On behalf of Lotfi Raissi) v SSHD [2008] EWCA Civ 72. This was a successful challenge to the Secretary of State's decision to refuse compensation to Lotfi Raissi, the Algerian pilot wrongly accused of participation in 9/11 plot and sought by the United States of America for extradition.

Russian Federation v Chernysheva and Maruev, DJ Workman, 18th March 2005;

Russian Federation v Temerko, DJ Workman, 23rd December 2005. In this series of cases, Edward successfully represented a number of defendants sought by the Russian Federation for their alleged involvement in the crimes of the Yukos company.

Russian Federation v Izmaylov, DJ Workman, 22nd December 2008. Edward also successfully represented Mr Izmaylov in his fight against extradition to Russia.

Administrative and Public Law

Edward Fitzgerald KC was named Human Rights and Public Law Silk of the year 2013. He has life long experience in a wide-ranging number of Public Law fields. He has particular expertise in areas of Public Law relating to the criminal justice system and prisoners' rights; asylum and deportation; mental health; coroners' law; and the review of the decisions of the

disciplinary bodies - including the GMC and public service bodies in Commonwealth jurisdictions.

Recent Cases

Some of Edward's recent notable cases in public law include:

Maha Elgizouli v the Secretary of State for the Home Department. Edward represented the mother of one of the "IS Beatles" in her appeal to the Supreme Court arising out of the Home Secretary's decision not to seek death penalty assurances from the United States for her son before providing evidence against him gathered by the British Police. On 25 March 2020 the Supreme Court ruled in her favour. As a result, the US Government was obliged to provide death penalty assurances before Mutual Assistance was provided.

R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs. On 16 November 2016 the UK Government announced that it would not fund any supported resettlement of the Chagos Islands. On 16 February 2017 Olivier Bancoult, the Chair of the Chagos Refugees Group, issued an application for judicial review of both decisions. This fresh judicial review revisited the legality of the statutory barriers to the exercise of the constitutional right of abode by the Chagossians removed from their homeland by the United Kingdom Government. Edward Fitzgerald KC appeared for Louis Olivier Bancoult.

Day and Bush v The Attorney General of the Cayman Islands JCPC [2020] 0033. A constitutional and public law challenge to the refusal of the Cayman Islands Government to recognise the right of same sex couples either to marry or to enter into civil partnerships. The Court of Appeal reversed the Chief Justice's decision to modify the marriage law to provide a right of same sex couples to marry but upheld the right of same sex couples to enter into civil partnerships and instructed the Government to introduce legislation forthwith. A civil partnership law has now been introduced; Edward Fitzgerald KC who represented Chantelle Day and Vickie Bodden Bush in the Courts below is due to appear before the Privy Council in an appeal on the issue of same sex marriage before the Privy Council in February 2021.

D&F v Persons Unknown [2020]. Edward represented the Claimants at the hearing in October 2020 designed to obtain lifelong anonymity orders against the media for the two claimants who had been convicted of murder as juveniles - on grounds of their rights under Articles 2,3 and 8 of the European Convention.

The Commissioner of the Independent Commission of Investigations v The Police Federation (1) Merrick Watson (2) The Special Constabulary Force Association (3) Delroy Davis (4) [2020]. Edward represented INDECOM in their appeal to the Privy Council

to establish that they have a separate and independent right to prosecute police involved in serious misconduct. The full court in Jamaica had found for INDECOM on this issue, but the Jamaican Court of Appeal had subsequently reversed their decision. The Privy Council rejected the appeal but made relevant findings in favour of INDECOM.

Other Past Cases

Al-Sirri v SSHD [2012] 3 WLR 1263. In this case the Supreme Court ruled that individuals accused of involvement in acts contrary to the purposes and principles of the UN were disqualified from refugee status only if it could be shown that there were serious reasons for considering that actions for which they were responsible had a serious effect on international peace and security.

R (on the application of Gujra) v CPS [2012] 3 WLR 1227. This case involved a challenge to the policy of the DPP to take over and discontinue any private prosecution where he would not himself have initiated a prosecution. The Supreme Court ruled against the Appellant by three votes to two and upheld the DPP's policy.

Othman v SSHD [2013] EWCA Civ 277. The successful challenge of Mr Othman to the decision of the Home Secretary, Theresa May, to order his deportation to Jordan. SIAC announced its decision on 12th November 2012. The decision was upheld by the Court of Appeal.

Ashcroft and Others v Attorney General of Belize [2014] CCJ 2 (AJ). This case involved a successful challenge to the constitutionality of legislation passed by the Belize government that targeted Mr Ashcroft and his companies and sought to mandate disproportionate penalties if they sought international arbitration in breach of anti-arbitration injunctions imposed by Belize courts. The Court of Appeal ruled that the legislation was unconstitutional and violated the principle of separation of powers.

Nancy Kissel v Secretary of Justice, HKSAR [2017]. Edward represented the 'milkshake murderess' in her judicial review against the Long-Term Prison Sentences Review Board in Hong Kong. The Applicant sought to establish that the right of life sentence prisoners to be informed of a finite 'tariff' period. At present there is Appellate authority in Hong Kong against that proposition.

R (Noye) v The Secretary of State for Justice [2017] EWHC 267 (Admin). This was a successful judicial review challenge to the Home Secretary's refusal to move Kenneth Noye to an open prison despite a positive recommendation by the parole board.

International Law and Foreign Jurisdictions

Edward Fitzgerald has an extensive International Law practice, involving public international law and international human rights law. He has represented the **Belize government** in its case against Guatemala; and advised **governments of Kazakhstan, Ecuador and Qatar** on matters of international law and human rights law. He has challenged governmental decisions in numerous cases before the **European Court of Human Rights**, the **United Nations Human Rights Committee**, the **Inter-American Commission of Human Rights** and the **African Commission of Human Rights**. He has also appeared for individuals challenging conduct of states in the European Court of Human Rights, the Privy Council and the domestic courts of the Eastern Caribbean, Belize, Bahamas and Trinidad.

Edward is currently acting for the **former President of Armenia**, Robert Kocharyan.

He has also represented the applicants Mitchell and Jones in the case of **Jones and Others v Saudi Arabia** in the House of Lords and conducted their appeal to the European Court of Human Rights.

Edward's international cases in the Caribbean and elsewhere have included:

- **Day and Bush v Governor of the Cayman Islands** – Gay marriage case. Ongoing.
- **Ewart Layne v Attorney General of Grenada**
- **R (on the application of Bancoult (No 2)) v Secretary of State for Foreign and Commonwealth Affairs** [2016] UKSC 35
- **Government of Rwanda v Celestin Ugirashebuja & others**

Cases before the European Court have included:-

- **Hafeez v UK** ongoing
- **Harkins No. 2 v UK** [2017]
- **Abu Qatada v UK** [2012] 55 EHRR 1
- **Venables and Thompson v UK** [2000] EHRR 12
- **Stafford v UK** [2002] 35 EHRR 32
- **Johnson v UK** [1999] 27 EHRR 296
- **Singh & Hussain v UK** [1996] 22 EHRR 1
- **Scott v Spain** [1997] 24 EHRR 391
- **Portington v Greece** App. No. 28523/95
- **Steel and Others v UK** [1999] 28 EHRR 603
- **Mangouras v Spain** [2012] 54 EHRR 25

- **A-G of Belize v Zuniga and Others** – Civil appeal Nos 7, 9 and 10 of 2011 in Belize Court of Appeal
- **Young Vui Kong v DPP**

Prison Law and Crime Related Public Law

Edward has thirty years of experience in the field of prisoners' rights. Since the 1980s he has argued many of the landmark cases in the House of Lords and the Court of Appeal which established prisoners' rights of access to the courts; access to lawyers and access to journalists. He also argued the leading cases that established the right to judicial review of disciplinary adjudications, including the case of *ex parte Leach*. Finally, he has taken many of the leading cases that established the rights of prisoners to parole review, and to fairness at parole reviews.

Edward's cases have included:

- **R. (on the application of Noye) v Secretary of State for Justice** [2017] EWHC 267 (Admin) – this was a successful challenge to a refusal to move to an open prison.
- **Nancy Kissel v Secretary of Justice**, HKSAR [2017]
- **R. (on the application of Harkins) v Secretary of State for the Home Department** [2014] EWHC 3609 (Admin) – this was a challenge to extradition to face life without parole.
- **ex parte Smith** [2006] 1 AC 159
- **Benjamin and Wilson v UK** [2003] 36 EHRR 1
- **SSHD ex p Anderson** [2003] AC 837
- **Stafford v UK** [2002] 35 EHRR 32
- **ex parte Hindley** [2001] 1 AC 410
- **Venables and Thompson v UK** [2000] EHRR 121
- **Johnson v UK** [1999] 27 EHRR 296
- **ex parte Pierson** [1998] AC 539
- **ex parte Venables and Thompson** [1998] AC
- **Singh & Hussain v UK** [1996] 22 EHRR 1
- **ex parte Leech** [1994] QB 201
- **ex parte Wilson** [1992] QB 740
- **Thynne, Gunnell and Wilson v UK** [1991] 13 EHRR 666
- **ex parte Findlay** [1985] AC 318

Professional Discipline and Regulation

Edward Fitzgerald KC has wide experience in representing professionals in disciplinary proceedings. He has frequently represented doctors before the GMC, pharmacists before the Royal Pharmaceutical Society, and lawyers before the Bar Disciplinary Committee and the Legal Executive Appeals Tribunal.

He has appeared for judges and public servants in constitutional proceedings in the Caribbean and Gibraltar, including the **Chief Justice of Gibraltar**, the **Director of Audit in Grenada** and he has taken a number of challenges to dismissal of public servants in constitutional appeals from Trinidad in the Privy Council.

In the field of sports he has successfully represented the Olympic Athlete **Arthur Lanegan O'Keefe** and the Irish Pentathlon Association before the Court of Arbitration for sport to vindicate his selection for the 2012 Olympic Games; and has represented **Willy Mullens** before the Appeals Board of the Jockey Club in England.

In 2018, Edward successfully represented **Timothy Brennan** before the British Horseracing Authority. Brennan, a self-employed vet, was alleged to have passed insider information about a horse he had been working with to his brother. The decision was important in establishing the limits of the British Horseracing Authority.

His cases include:

- **Henry Gow** before the Bar Disciplinary Tribunal in July 2013
- **Colman v GMC** [2010] EWHC 1608 (QB)
- **GMC v Quinn** [2010]; **NT v GMC** [2013]
- **The case of Chief Justice Schofield from Gibraltar** in 2008
- **Lawrence v AG for Grenada** [2007] UKPC 18
- **Jhagroo v Teaching Service Commission Privy Council** (Trinidad and Tobago) 4/12/2002
- **Mullens v Appeals Board of Jockey Club**