

IN THE SUPREME COURT OF BELIIZE, A.D. 2004
INFERIOR COURT APPEAL NO. 1 OF 2004

ROBERT HERTULAR

Appellant

AND

**GOVERNMENTS OF USA
& BELIZE**

Respondents

—

BEFORE the Honourable Abdulai Conteh, Chief Justice.

Mr. Lionel Welch for Appellant.

Mr. Elson Kaseke, Solicitor General with Ms. Minnet Hafiz and Ms. Rondine Twist for the U.S.A.

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RULING

Having hearing the Solicitor General on preliminary objection to this appeal to the effect that the appellant is using the wrong procedure when in the circumstances of this case it would be more appropriate, convenient and effective to proceed by way of habeas corpus or judicial review and having heard Mr. Welch in reply, I am of the considered view that the decision of the learned Chief Magistrate of 16 February 2004 confirming the provisional arrest warrant for the appellant for the purposes of extradition proceedings could more expeditiously and profitably be challenged by way of habeas corpus.

The confirmation of the provisional arrest warrant decided nothing other than that the extradition proceedings for the appellant could go ahead, as a consequence of which appellant was remanded in custody.

If therefore there is felt a grievance and the need to challenge the detention, then habeas corpus would be more appropriate. Even then, it might be premature to do so in the absence of all the evidence in the extradition proceedings unless, of course, there is an evident irregularity that should be corrected even before the extradition proceedings are completed.

Accordingly, I think the learned Solicitor General's objection is well founded. This is not a matter that could properly be treated in an appeal. The appeal is therefore dismissed.

No costs are awarded.

A. O. CONTEH
Chief Justice

DATED: 3rd May, 2004.