

**Benson, Paul**

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**From:** Benson, Paul  
**Sent:** 01 August 2017 14:43  
**To:** Dyer Daniel  
**Cc:** DR's Team 04  
**Subject:** Release referral - D1914 (C1346228) - on Health grounds

Daniel,

Would you please approve and forward the attach release referral. Although this individual is a serious offender, he is not currently removable as there is an outstanding JR against certification of the deportation decision and that it breaches his rights under Articles 3, 5, 6 and 8.

However, the main reason for the release referral is that a Rule 35 Report indicates that his health, he has a serious heart condition, is being impacted by his continued detention.

Regards,

*Paul Benson*

EO Caseworker  
Criminal Casework Team 04  
Immigration Enforcement  
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Tel: DPA

**Referral of case suitable for contact management**

**Identity**

Full Name: D1914  
Date of Birth: DPA  
Nationality: Romania  
HO Ref: C1346228

**Offences listed in date order, most recent first:**

# Sensitive/Irrelevant

# Sensitive/Irrelevant

## Current Detention status:

**D1914** has been in immigration detention since 28 March 2017.

## Summary Immigration history and current status:

**D1914** claims to have been residing in the UK since 2009. As an EEA national, he would not have been subject to immigration control at the point of entry into the UK.

# Sensitive/Irrelevant

In light of his convictions, he was served with notice of liability on 31 March 2017.

On 31 March 2017 he made a number of representations, including health matters, which were considered in notice of decision to make a deportation order.

On 10 April 2017 he was made the subject of a certified deportation decision, certified under Regulation 33 of the Immigration (European Economic Area) Regulations 2016 and a signed Deportation Order these documents were served on him on 11 April 2017.

On 12 April 2017 confirmation was received of his fitness to be detained and fitness to travel.

On 13 April 2017, removal directions were requested and set for 28 May 2017, with escorts including a medical escort.

On 18 April 2017, he was rush to hospital claiming the he had chest pains. However, he was released from the hospital the following morning and returned to the removal centre. Immediately, on his return he was assessed as being both fit to be detained and fit to travel.

On 19 April 2017 his representatives wrote in stating that he was not fit to be detained, due to his heart condition and that he should be released on Temporary Admission. Response set 21 April 2017, advising representatives that Healthcare Services were aware of his medical condition but had advised that he was fit to be detained and fit to travel.

On 20 May 2017 removal directions were set for 28 May 2017. On 27 May 2017 Healthcare assessed **D1914** as being both fit to be detained and fit to fly.

On 28 May 2017 removal failed due to his disruptive behaviour. *"..Captain refused to carry subject and escorts stating that the subject claimed he would make enough noise to disrupt his aircraft and that he would induce a heart attack as he was awaiting further treatment here in the UK."*

On 05 June 2017, removal directions were re-set for 12 June 2017.

On 07 June 2017 an Order was received restraining the Home Office from removing **D1914** before his application for a JR had been heard. As a consequence RDs were cancelled.

On 05 July 2017, following the refusal of his IAC bail application, **D1914** made cuts to both his forearms, his neck and took a large amount of tablets. He was placed on an ACDT Constant



Supervision and sent to Outside Hospital. On 06 July 2017 he returned from bedwatch at East Surrey hospital, ACDT constant supervision reviewed now hourly observations.

On 13 July 2017 a report was received from healthcare stating D1914 *has multiple health issues which although initially stable are now at risk of worsening due to his detention. He has been to healthcare increasingly more due to his cardiac symptoms and I feel he is at risk of further cardiac issues should he have prolonged time in detention"*

On 21 July 2017 Rule 35 Report received expressing concern for his health if detention was continued. "...though detention is not worsening his condition, stress may trigger events that lead to another cardiac event.." On 25 July 2017, response sent confirming that release would be considered.

On 28 July 2017, letter received from representatives expressing concern for subject's health whilst he remains in detention. Letter states subject suffered heart attack whilst in detention. (Not the case see above - 18 April 2017)

#### **Deportation Status:**

D1914 falls to be deported on grounds of public policy in accordance with regulation 19(3)(b) of the Immigration EEA Regulations 2006. He currently has an ongoing JR against certification and claims that deportation would breach his rights under Articles 3, 5, 6 and 8.

#### **Current barriers to removal are:**

The outcome of the Judicial Review.

#### **Actions taken to overcome removal barriers:**

On 13 June 2017 case owner requested that the JR application be expedited.

#### **Imminence of removal:**

Although it could be considered, with the expedition of the JR that removal could take place within a reasonable timescale, it is the health issue and the issue of the Rule 35 report this is the issue.

He must now be considered as a level 3 Adult at Risk.

#### **Compliance:**

D1914 was due to be removed on 28 May 2017, but removal failed due to his disruptive behaviour.

#### **Bail:**

On 19 April 2017, following his admission to hospital, but before his return next morning, his representatives submitted a TA request, on medical grounds. However the request was refused on 21 April 2017, following confirmation of his fitness to be detained.

On 29 May 2017 he made an application for IAC bail. Application withdrawn on day of hearing 06 June 2017.

On 08 June 2017 he made an application for TA, but this was refused on 14 June 2017.

On 23 June 2017 he made an application for IAC bail, which was refused 05 July 2017, for the following reasons.

*"The only bar to the applicant's removal is a judicial review application in respect of which the applicant has not yet been granted permission. If refused, the applicant could be removed on an EU document. The applicant has a lengthy and serious criminal history in Romania and Germany in respect of which he faces deportation. He has been arrested several times in the United Kingdom but has not been convicted of any offence here."*



*There is a risk of absconding in this case as the applicant is aware that the respondent is taking purposeful steps for his removal, and he has said that he would rather kill himself than return to Romania. Removal directions have been set and cancelled on two previous occasions, owing to the applicant's claim to be in ill health. However he was subsequently medically examined and pronounced fit to fly*

*Even if bail were appropriate in principle, the surety who was offering the bail address (in Bath) did not have evidence of the accommodation and he did not have the funds pledged in his account. Further, the applicant, in fact, wished to live with his partner (in Kent) and I could not be sure that the applicant would comply with a residence condition requiring them to live apart. Whilst his partner could not act as a surety as she has a criminal conviction, there was no reason why the applicant could not be bailed to her address, provided Home Office checks were satisfactory and evidence of the accommodation was provided.*

*Finally the applicant claimed that he was unfit to be detained. This is contrary to what was said in the bail summary. The applicant faxed through a large bundle of correspondence concerning his health conditions in which it was confirmed, inter-alia that the applicant had a double heart bypass in November 2016. In a letter dated 24 January 2017, Sheena Garg, SpR in cardiac surgery, confirmed that the applicant was 'very well' is following his surgery and "has no complaints". The applicant claimed that he was due to have further surgery this year and has thrombosis but there was no evidence of this. I am satisfied that the applicant's medical conditions are being managed in detention. Bail is refused"*

**Address:**

[D1914] has provided a release address of [DPA], which belongs to his friend and which was also provided on the IAC bail application, as his release address. It is interesting to note that although his representatives have stated that he has been in and still is in a long term relationship with his partner, [Sensitive/irrelevant] on 23 June 2017, she gave her address as [DPA].

His convictions all refer to overseas offences and as such probation services are not involved and he has no offender manager.

**Risk of harm:**

[D1914] [Sensitive/irrelevant]  
[Sensitive/irrelevant]  
[Sensitive/irrelevant] and as such he has been assessed as been assessed as posing a high risk of harm to the public.

**Proposed conditions of release:**

[D1914] will be placed on weekly reporting restrictions, with tagging, to be present at the release address for at least two periods of two hours in any 24 hour cycle.

He is not subject to licence or probation reporting.

**Date by which individual will be released:**

As soon as practically possible after authorisation to release is received and subject to confirmation from his representatives that tagging can be installed at the release address and for the necessary arrangements for tagging to be made.

**Additional factors to be considered:**

Although the police have no objection to his deportation, they do have an interest in him. On 21 June they advised that "For you information I have been contacted by Avon & Somerset fraud team who

have evidence on his partner [Sensitive/Irrelevant] is involved in a large scale scam. This may involve him. I will let you know."

On 14 July 2016 he was arrested in connection with offences against the person and released on Police bail. However, on 28 March 2017 notification was received that the previous offences have been closed - NFA'd, but that he now [Sensitive/Irrelevant]

[Sensitive/Irrelevant] He complained of chest pains when arrested but then later changed his mind, it at this time he was detained under immigration powers, as the police were content for him to be removed, rather than made to stay to face the further charge [Sensitive/Irrelevant]

On 16 July 2016 we were notified that an EAW , from the Romanian authorities had been quashed.

**Director of Crime and Intelligence comments**

**I agree to release this individual on restrictions**

☒ **I do not agree to release this individual from detention**

**Signed .....**      **Date.....**

**Director, Crime and Intelligence, Immigration Enforcement.**