WikiLeaks founder Julian Assange fights extradition to Sweden

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On Tuesday, WikiLeaks founder Julian Assange appeared at the High Court at London's Royal Courts of Justice to appeal against his extradition to Sweden on trumped-up allegations of rape. The expected two-day hearing is in response to the February 24 ruling by Judge Howard Riddle at the High Court that Assange can be extradited.

The case against Assange is aimed at silencing WikiLeaks, which has made public thousands of secret US military documents exposing the criminal character of the invasions and occupations of Afghanistan and Iraq and US diplomatic cables documenting the filthy conspiracies that have been carried out against the world's people by Washington and its allies.

Assange's appeal is being heard by two high court judges, Lord Justice Thomas and Mr. Justice Ouseley. Assange has enlisted the services of a new legal team for the appeal, including Gareth Peirce, the renowned human rights lawyer. Among those that Peirce has represented are the Guildford Four, wrongfully convicted for terrorist pub bombings in October 1974, and the family of Jean Charles de Menezes, the innocent young Brazilian man shot dead by London police officers in the aftermath of the July 2005 London bombings.

The WikiLeaks editor-in-chief was arrested on December 7 in London on a European Arrest Warrant (EAW) issued by the Swedish authorities, alleging sexual misconduct. Two women in Sweden admit having sex with Assange willingly on separate occasions last August. But one alleges that, in one instance, Assange failed to use a condom. The other alleges that on one occasion Assange had sexual intercourse while she was not fully awake. Assange admits consensual sex with each woman, but rejects any wrongdoing.

Despite his arrest, Assange has still yet to be charged with any offence. For nearly seven months he has been placed under house arrest at the Norfolk residence of one of his supporters, Vaughan Smith. According to the extraordinary restrictive bail conditions, he must wear an electronic ankle tag and report to a designated police station each day.

As intended, these conditions have made it almost impossible for WikiLeaks to function normally. Assange's detention has been compounded by the actions of leading payment networks, including MasterCard and Visa, who have barred any online donations being made to WikiLeaks through their systems. WikiLeaks has estimated that these bans on online donations have cost it around $15 million. The block on financial donations to WikiLeaks has been made at the highest levels of the Obama administration in the United States.

Last week, DataCell, a payment provider based in Iceland, began to process online donations to WikiLeaks, using an alternative-payment gateway to process money sent through MasterCard and Visa Europe. The payments were stopped just hours later by Visa, which stated, "As soon as this came to our attention, action was taken with the suspension of Visa payment acceptance to the site remaining in place."

DataCell said of the action, "The reason they give is that orders have been given by the international card companies to close down the gateway and that processing donations to WikiLeaks is a violation of general terms between the two parties".

Written arguments submitted to the high court by Assange's lawyers described each of the alleged offences against their client and explained how the EAW had distorted the basic facts.

Ben Emmerson QC told the judges that the EAW was

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“misleading in the extreme” and failed to provide a “fair, accurate and proper” description of the alleged sexual misconduct.

Emmerson said the extradition order is also flawed because it calls for Assange’s return to Sweden “not for prosecution but for the purposes of an investigation” and is “a disproportionate utilisation” of the EAW system.

The EAW was further invalid, Emmerson said, due to major discrepancies between its allegations of sexual assault and the testimonies of the two women.

Regarding the first alleged offence made by one of the women—known as AA—Assange’s lawyers argued that the information contained in the arrest warrant is not an accurate description of the alleged conduct. The arguments pointed out that “accurately described, the appellant [Assange] held AA during consensual sexual foreplay and, when actually asked to put on a condom, did so.”

Emmerson stated that the second alleged offence of sexual molestation was an “entirely consensual sexual encounter throughout”, and charged that the claims contained in the arrest warrant were “misleading in the extreme” on both these incidents.

Regarding the third alleged offence, this occurred when AA and Assange were “voluntarily sharing a single bed”, said Emmerson.

The fourth alleged offence of “minor rape” against the second woman, SW, was also not accurately described in the arrest warrant as this was an “entirely consensual sexual encounter”, said Emmerson.

Reportedly, the woman had said she found Assange’s behaviour at one point to be “very strange” and had just wanted the sexual intercourse to be “over with”. Emmerson said, “Her words may indicate she was not particularly enjoying what was going on. But they certainly do not go anywhere near what we would regard in this country as lack of consent”.

Emmerson also charged that the allegations against Assange were not extraditable offences. He stated, “What [Swedish prosecutors] must prove beyond reasonable doubt is that if these circumstances as alleged had happened in London, would they have constituted offences? [There are] very serious questions on dual criminality in [three charges]. [There are] very serious questions on whether what happened in charge four could have recognisable as a charge in this [country].”

He added, “The senior district judge [in Sweden] found that those factual allegations would establish dual criminality on the basis that lack of consent, and lack of reasonable belief in consent, may properly be inferred from the conduct described, particularly the references to ‘violence’ and a ‘design’ to ‘violate sexual integrity’. However, that description of conduct is not accurate. The arrest warrant misstates the conduct and is, by that reason alone, an invalid warrant.”

Emmerson also drew attention to the fact that there was evidence that Assange’s lawyers had still not seen, due to the fact that under Swedish law prosecutors are not obliged to reveal it until legal proceedings are at a later stage.

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