

British High Court dismisses appeal by WikiLeaks' Julian Assange against extradition

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On Wednesday, the High Court in London dismissed the appeal by WikiLeaks founder Julian Assange against his extradition to Sweden on frame-up charges of rape and sexual assault.

The hearing took place nearly four months after the two presiding High Court judges, Sir John Thomas and Mr Justice Ouseley, deferred Assange's appeal against a February 24, 2011, ruling that he could be extradited.

At the February hearing, District Judge Howard Riddle at Belmarsh Magistrates' Court perversely ruled that extradition would not breach Assange's human rights and that he would get a fair trial if he were ever charged in Sweden.

Assange's lawyers have indicated they will appeal the latest decision to the Supreme Court. His legal team have only 14 days to do so and face huge obstacles. They must seek permission from the High Court by applying for a certificate of law of general public importance. Under UK law, Assange's lawyers must justify their application by arguing that the case concerns a point of law of general importance to the public. Only if the High Court agrees with that can the Supreme Court hear an appeal.

Given that the same court has just rejected Assange's appeal, permission is highly unlikely. This would mean Assange will be forcibly extradited to Sweden within 10 days of the hearing, even though he has not been charged with any offence.

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. WikiLeaks has also published hundreds of thousands of US diplomatic cables documenting the conspiracies carried out against the global population by Washington and its allies.

Since Assange's arrest, the British state has worked hand in glove with the Swedish authorities for his extradition.

Assange rightly fears that, once in Sweden, Washington

will move for his extradition to the US. A secret grand jury has reportedly been convened in Alexandria, Virginia, to this end. Located near the Pentagon, Central Intelligence Agency and Department of Homeland Security, this jury would almost certainly include people employed by or close to the US national security apparatus.

Once in the US, Assange could be charged under the Espionage Act and face a possible death sentence.

The judicial frame-up rests on allegations of rape and sexual assault made by two women in Sweden. Both admit to having had consensual sex with Assange last August. One alleges that, in one instance, Assange failed to use a condom. The other claims that on one occasion, Assange had sexual intercourse while she was not fully awake. Assange admits to consensual sex with each woman, but rejects any wrongdoing.

On the basis of these allegations, the Swedish authorities issued a European Arrest Warrant (EAW) against Assange, who was arrested in London last December. Following almost a week of solitary confinement, Assange has spent 330 days under house arrest. The extraordinarily restrictive bail conditions mean he must reside at the Norfolk home of one of his supporters on a 10 p.m. curfew, wear an electronic ankle tag and report to a designated police station each day.

Assange must now remain on the same bail conditions pending a decision on a further appeal. Even were Assange given permission to appeal to the Supreme Court, the hearing would not take place until next year.

Assange's lawyers had argued in court that the EAW was invalid, having been issued by a prosecutor, Marianne Ny, and not by a "judicial authority". The judges rejected this argument, stating that "the prosecutor was a judicial authority under the 2003 Act and Framework Decision."

Assange's defence also challenged the EAW on the basis that the alleged offences were not extraditable ones in the UK. In July, Assange's lawyer, Ben Emmerson QC, argued, "What [Swedish prosecutors] must prove beyond reasonable

doubt is that if these circumstances as alleged had happened in London, would they have constituted offences?" He added that the "description of conduct is not accurate. The arrest warrant misstates the conduct and is, by that reason alone, an invalid warrant."

Thomas and Ouseley brazenly dismissed these arguments, stating, "The Court rejected Mr Assange's contention that under the law of England and Wales consent to sexual intercourse on condition a condom was used remained consent to sexual intercourse even if a condom was not used or removed."

They add, "The Court considered the issue of Offence 4 [the alleged rape] and ruled that the conduct described in the EAW was fairly and accurately reported." (The full ruling can be read here: <http://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/assange-judgment.pdf>.)

The EAW was also challenged on the basis that Assange does not have the status of an accused person as he has not been charged with any offence, and a warrant cannot be used for the purposes of questioning someone.

The judges dismissed this. After acknowledging that "In the present case, as is accepted there is nothing on the face of the EAW which states in terms that Mr Assange is accused of the offences", they continued, "The fact that the term 'accused of the offence' is not used does not matter if it is clear from the EAW that he was wanted for prosecution and not merely for questioning."

Assange also argued that the EAW was "disproportionate", as he had fully cooperated with the Swedish authorities when the allegations were first made. Within days, the senior prosecutor in Stockholm had thrown the case out as worthless, and only after the intervention of a prominent right-wing Social Democratic politician and lawyer was the case resurrected. The appellant's legal team said that Assange would willingly undergo questioning over a video link or by other means.

Again, these arguments were dismissed. Essentially ruling that if the Swedish authorities are after Assange, they should be able to get him without hindrance, the judgement continued, "The Prosecutor must be entitled to seek to apply the provisions of Swedish law to the procedure once it has been determined that Mr Assange is an accused and is required for the purposes of prosecution."

The judges dismissed Assange's offer to answer questions without travelling to Sweden, stating, "In any event, we were far from persuaded that other procedures suggested on behalf of Mr Assange would have proved practicable or would not have been the subject of lengthy dispute."

The decision again underscores the reactionary and arbitrary basis of the EAW system. In February, Assange

described the High Court's proceedings as a "rubber stamping process" and the "result of a European arrest warrant system run amok."

Speaking after the court hearing, Assange said, "I have not been charged with any crime in any country. Despite this, the European Arrest Warrant is so restrictive that it prevents UK courts from considering the facts of the case, as judges have made clear here today."

Enacted by the European Union in 2003 as part of the so-called "war on terror", EAWs are now routinely used to extradite people to any EU country without due consideration of the facts of the case against them. Three people are extradited every day from the UK alone on EAWs. Julian Knowles, an extradition lawyer at London's Matrix Chambers, who is familiar with the Assange case, said that prior to the High Court ruling, "Very, very few people defeat a European Arrest Warrant. The courts in England generally lean in favour of extradition."

The legal lynching of Assange is part of a strategy by the ruling elite to destroy WikiLeaks. The High Court judges ordered that Assange pay court costs of £19,000. His lawyers indicated that the WikiLeaks founder might not be able to pay them.

As the result of a financial blockade by major US financial institutions—VISA, MasterCard, PayPal, Western Union and Bank of America—WikiLeaks has been unable to receive the donations that allowed it to function. WikiLeaks stated recently that "The attack has blocked over 95 percent of our donations, costing tens of millions of dollars in lost revenue," adding that the "attack is entirely political."

Last week, WikiLeaks was finally forced to suspend publication and issued a statement reading, "For almost a year we have been fighting an unlawful financial blockade. We cannot allow giant US finance companies to decide how the whole world votes with its pocket. Our battles are costly. We need your support to fight back. Please donate now."

WikiLeaks is able to receive donations here: <http://shop.wikileaks.org/donate>.



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