WikiLeaks' Assange given green light to appeal extradition order before UK Supreme Court

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WikiLeaks founder Julian Assange is to be allowed to make an appeal to the UK's Supreme Court against his extradition to Sweden on trumped-up sex charges.

Assange appeared at the High Court at the Royal Courts of Justice Monday, almost one year since his arrest in London on politically motivated grounds. His appearance was his tenth in a British court since his arrest on December 7, 2010.

Assange was seeking permission to make an appeal following the November 2 High Court ruling that threw out, on all four grounds, his appeal against his extradition to Sweden.

The Swedish authorities, in league with the Crown Prosecution Service in the UK, are seeking to extradite Assange on the basis of accusations of sexual assault made by two Swedish women in August last year. Both women admit to having consensual sex with Assange. 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 rejects any wrongdoing.

Monday's hearing was presided over by the same two judges, Sir John Thomas and Mr Justice Ouseley, who upheld Assange's extradition to Sweden at the last hearing. Their judgement followed the ruling in February by district judge Howard Riddle at Belmarsh Magistrates Court that Assange should be extradited.

As a result of WikiLeaks' exposure of the criminal character of the invasions and occupations of Afghanistan and Iraq, as well as other crimes by the major imperialist powers, leading political and media figures in the United States have called for Assange's assassination and the destruction of his organisation. Despite this, Riddle ruled that extradition would not breach Assange's human rights and that he would get a fair trial if charged in Sweden.

Following dismissal of the legal arguments of Assange's counsel in November, the only legal channel open to him was to seek permission from the High Court to be allowed to make an appeal to the Supreme Court. He had to apply for a certificate of law on the grounds that his case raised a question of "general public importance".

At Monday's hearing Assange's legal team, led by Gareth Peirce, argued that the UK's highest court should consider whether his extradition would be unlawful as the request from the Swedish authorities was made by a "partisan prosecutor working for the executive". They also questioned whether the appellant could be defined as "the accused", as no decision has been taken in Sweden to prosecute him. Assange is not described as an accused person on the face of the European Arrest Warrant (EAW) that demands his extradition.

His lawyers argue that the EAW was not issued by a judicial authority, as is required under European Union law, and it is therefore invalid. It was issued by Swedish prosecutor Marianne Ny, who took up the case against Assange after it had been thrown out by Swedish Chief Prosecutor Eva Finné. Within 24 hours of the women making their allegations, Finné stated, "I don't think there is reason to suspect that he has committed rape."

The case was resurrected by a leading right-wing social democrat and lawyer, Claes Borgström.

Appearing for Assange Monday, Mark Summers, QC, told the judges, "Public prosecutors should not, in any circumstances, be permitted to issue EAWs."

A large number of EAWs had been found to be "unjust, oppressive or abusive". Since 2005, 60 different cases have challenged the EAW system at the High Court on the basis that they had been issued by a prosecutor, not by an independent and impartial member of the judiciary.

Arguing for the Swedish government, Clare Montgomery, QC, claimed that Assange's case was "not of general public importance". This was despite the fact that later in the day the British parliament was to debate the question of who is a "judicial authority" authorised to issue an EAW.

She told the court, "The only reason Mr. Assange's case

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hasn't been tried is because of his self-imposed absence".

In fact, Assange was interviewed by the Swedish police immediately after the accusations against him were made, and was then allowed to leave Sweden.

The judges accepted that the question of whether a partisan public prosecutor is a "judicial authority" as required by the 2003 Extradition Act was a point of "general public importance". However, Sir John Thomas said the High Court still had "very little doubt that, as a matter of law, the prosecutor was within the scheme" for issuing warrants.

The ruling means that Assange was refused the automatic right to take his case to the Supreme Court, but is able to now directly ask the Supreme Court to look at his case.

Thomas insisted that even if Assange's case were allowed to be heard in the Supreme Court, his chances of being successful there were "extraordinarily slim". He added, "We would, for obvious reasons, ask that the point is decided as quickly as possible" by the Supreme Court.

Assange has just 14 days in which to petition the Supreme Court. As Gareth Pierce pointed out outside the High Court, were the Supreme Court to refuse to hear the request then Assange will have exhausted all legal avenues in Britain. On this basis he will face immediate extradition to Sweden.

After the hearing, Assange said regarding the EAW system that there were "many aggrieved families in the UK and other countries and in Europe struggling for justice… I think that is the correct decision, and I am thankful. The long struggle for justice for me and others continues."

The internationally-orchestrated manhunt of Julian Assange, led by the United States, is aimed at silencing him and destroying WikiLeaks.

More evidence emerged last week of the vast scale of the "Get Assange" operation. On Saturday, the *Sydney Morning Herald* revealed the existence of Australian diplomatic cables showing the closest collaboration between the Australian government and the Obama administration to this end.

The documents were released under Freedom of Information requests. The *Herald* stated that the documents prove that the "Australian embassy in Washington reported in December 2010 that the investigation was 'unprecedented both in its scale and nature' and that media reports that a secret grand jury had been convened in Alexandria, Virginia, were 'likely true'."

This backs up the statement from Assange's then lawyer Mark Stephens in December 2010, who said, "We have heard from the Swedish authorities there has been a secretly empanelled grand jury in Alexandria… just over the river from Washington DC, next to the Pentagon."

The *Herald* article draws attention to "newly released Department of Foreign Affairs documents" that "show that on December 7 last year, the Australian embassy in Washington confirmed the US Justice Department was conducting an 'active and vigorous inquiry into whether Julian Assange can be charged under US law, most likely the 1917 Espionage Act'."

The Australian government has done nothing to defend Assange, an Australian citizen. On the contrary, all the evidence points to actively working for his extradition to Sweden. Australian Attorney-General Robert McClelland pledged to "support any law enforcement action that may be taken" against Assange.

Former Australian Prime Minister and now Foreign Secretary Kevin Rudd recently refused to answer a question as to whether Assange could, once in Sweden, be subjected to a "temporary surrender" order, resulting in his extradition to the US.

The *Herald* notes, "The cables also show the Australian government wants to be forewarned about moves to extradite Julian Assange to the United States, but that Australian diplomats raised no concerns about him being pursued by prosecutors on charges of espionage and conspiracy."

The decision by the High Court to allow Assange, on a very limited basis, a petition to the Supreme Court is a calculated one. Assange's insistence that the case against him is politically motivated and that, if sent to Sweden, he faces incarceration for an indefinite period and even worse if he is sent to the US, is widely accepted as true. The judges therefore want to be seen to have offered him the chance to explore every legal avenue, while not committing to an actual hearing.

Monday's ruling testifies that the fate of Julian Assange and WikiLeaks cannot be left in the hands of the British judiciary. Working people internationally must demand the release of Assange, based on the mobilisation of the broadest possible layers of workers and youth in his defence.

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