

As extradition hearing dates are set, US Department of Justice argues Assange has no First Amendment rights

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District Judge Vanessa Baraitser has ruled that a full extradition hearing for imprisoned WikiLeaks publisher Julian Assange will be split, with the first week opening on February 24 and the final three weeks starting on May 18.

Yesterday's case management hearing at Westminster Magistrates' Court took place amid revelations that US government officials will argue that Julian Assange is not entitled to First Amendment protections to free speech.

In a statement issued outside the court, WikiLeaks editor-in-chief Kristinn Hrafnsson told reporters, "We have now learned from submissions and affidavits presented by the US...that they do not consider foreign nationals to have a First Amendment protection."

According to WikiLeaks, witness statements submitted to the court by US prosecutors on Saturday argue that Assange does not enjoy First Amendment protections because he is not a US citizen and because the amendment allegedly does not protect speech made outside the United States.

This latest evidence submitted on behalf of the US Department of Justice (DoJ) underscores the fundamental democratic issues at stake in the decade-long illegal persecution and witch-hunting of Assange and WikiLeaks.

Assange appeared at yesterday's hearing via videolink from Belmarsh Prison, stating his name and date of birth with some hesitancy. He was filmed from a distance, seated in the middle of a row of three chairs, with journalists and members of the public gallery unable to see his face clearly or gauge his reaction to proceedings.

At the start of the two-hour hearing, Baraitser revealed the DoJ had submitted a written application to the court for a "bifurcated" hearing, with the second part to be delayed by nearly three months. Lawyers for the US

government argued a delay was necessary to respond to a large volume of evidence submitted by the defence since December 19—tens of thousands of pages—including new evidence submitted last Friday.

Barrister Clair Dobbin, acting for the DoJ, said the prosecution's lead QC, James Lewis, was unavailable in March due to another case, but also indicated that more time was needed to instruct "our own medical experts" in response to medical evidence submitted by the defence.

The request for a delay was supported by Assange's legal team, with Edward Fitzgerald QC of Doughty Street Chambers telling Baraitser, "We need more time." He told the court "it would not be fair to Mr Assange" to proceed, emphasising the difficulties in gaining access to their client inside Belmarsh Prison. Between December 19 and January 13, lawyers had just two hours to brief Assange and take instruction. They were granted one more hour to confer on January 13, when Assange last appeared in court.

Fitzgerald indicated that Assange's poor health was hindering his ability to review the full body of evidence: "It's not an easy process to enable him to follow everything that's going on."

Baraitser initially opposed any delay to proceedings. She challenged the defence on its proposed timetable of evidence, demanding to know why so much time was being allocated to anonymous witness "GJ" and to computer experts Patrick Eller and Mark Felstein. Fitzgerald emphasised the importance of "detailed technical matters" in answering the indictments, saying that these issues needed careful explanation in court and adding that "justice is supposed to be done in public."

"In my court, [written] reports are adopted, and supplementary questions asked," Baraitser replied, making clear her determination to block the full

presentation of defence evidence.

Among several anonymous witnesses submitted by the defence are Witness 1 and Witness 2—former employees of Spanish security firm UC Global, which illegally spied on Assange and his legal team, capturing privileged discussions at the Ecuadorian Embassy on behalf of US intelligence agencies.

Dobbin told Baraitser on behalf of the DoJ, “The prosecution will object to anonymous witnesses” and would challenge the admissibility of their evidence. Seated in Court 3 were no fewer than six members of the DoJ’s legal team, including two lawyers from the Crown Prosecution Service, and John McNeil, a DoJ attaché at the US Embassy in London.

Yesterday’s hearing confirmed preliminary matters to be addressed during the first week of the hearing. These include arguments over whether the indictments relate to political offences that would bar extradition under current US-UK treaty arrangements, and defence arguments over abuse of due process by the US.

After ordering an adjournment for both parties to confer, Baraitser accepted their joint application for a split hearing. The full extradition hearing will open on February 24 at Belmarsh Magistrates Court, with the next procedural hearing scheduled at Westminster Magistrates Court on February 19.

Among those present in the public gallery yesterday were independent medical observers from Doctors4Assange. Dr. Derek Summerfield, a psychiatrist and honorary senior lecturer at Kings College London, viewed proceedings alongside Dr. Felicity De Zulueta, emeritus consultant psychiatrist in psychotherapy for South London and Maudsley NHS Foundation Trust.

In a statement issued before the hearing, Dr. Summerfield, principal psychiatrist for nearly a decade at the Medical Foundation for the Victims of Torture, said, “The UN Special Rapporteur on Torture Nils Melzer found that Mr. Assange is the victim of prolonged psychological torture and that his health has entered a ‘downward spiral’ inside Belmarsh Prison.

“Professor Melzer has raised fundamental medical-ethical questions. These must urgently be answered. Mr. Assange must be moved from Belmarsh Prison immediately and provided expert medical assessment and care.”

Yesterday’s hearing took place just days after the criminal conspiracy charges laid against American journalist Glenn Greenwald by the Bolsonaro government in Brazil.

WikiLeaks editor Kristinn Hrafnsson told the WSWS: “It is quite obvious that this is a carbon copy of the indictment against Julian Assange. There is very grave concern that Bolsonaro is taking cues from the Trump administration, from Pompeo, Barr and Pence, and saying, if they can do it, we can do it as well. The serious precedent that we have always been warning about in relation to Julian Assange and his case has certainly been manifested in the attack on Glenn Greenwald.”

Hrafnsson explained that he had mixed feelings about the change to the hearing dates. “Every day that Julian Assange has to spend in Belmarsh prison is a day too long,” he said. “The fact that he has to spend another three months because of the delay in the second part of the procedure is of concern. On the other hand, it is such a big case that the lawyers need extra time as well. Bear in mind that they have limited access to Julian inside Belmarsh, which in itself is outrageous.

“So, I have mixed feelings. Let us hope that this will end as soon as possible. In the meantime, I know the lawyers will push towards changing the situation. Hopefully they will move him from the maximum-security prison in Belmarsh, which is no place for a non-violent individual who is innocent by law and who is simply on remand awaiting a trial.”

WikiLeaks ambassador Joseph Farrell added that stripping Assange of free speech protections under the US Constitution “means that any foreign journalist is not protected by the First Amendment.” He continued: “This links in closely with what we have already said in the past is their extraterritorial arm. They are reaching into the United Kingdom for an Australian journalist who worked in Europe and the UK while publishing some of America’s most famous crimes. Now they are adding on to that, that he does not have protection under the First Amendment.

“We have said previously that this is a precedent-setting case and the repercussions are already being seen with Glenn Greenwald’s indictment.”

The author also recommends:

The prosecution of Glenn Greenwald and the global war on free speech

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