

Assange extradition hearing delayed following defence appeal

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Julian Assange's extradition hearing, scheduled to begin on May 18, has been postponed. The WikiLeaks founder is fighting prosecution by the United States government for exposing war crimes and human rights abuses and is facing a possible 175-year prison sentence.

On April 7, District Judge Vanessa Baraitser denied a request for a postponement. Yesterday's hearing was held at the request of Assange's legal team to review that decision.

Speaking for the defence, Edward Fitzgerald QC told the court, "Mr Assange no longer possesses the ability to prepare, communicate with his lawyers, call his evidence, or advance his submissions in a hearing which is fair, and which provides even a semblance of equality of arms [with the prosecution]."

"He has only this one chance to place his case before you and the fate that he faces if extradited is one that puts his very life at risk."

The defence lawyer insisted that a hearing could not proceed under the current circumstances. Counsel and solicitors "would necessarily have to sit in close proximity, in breach of government guidelines," and "bringing the defendant from the prison to the court" would be "dangerous for both him and the prison staff."

Furthermore, "in the present and continuing lockdown situation, it would be oppressive to require Mr Assange to undertake a three-week hearing in his current physical and mental condition."

"An evidential hearing in which Mr Assange, all lawyers, and all witnesses, appear via video is neither feasible nor in the interests of justice," he insisted.

Fitzgerald pointed out that it would be "impossible to ensure open justice at the hearing," explaining, "there is still no adequate means to address the problems of how the press and the public, who were entitled to be present at such a physical hearing, would practically be able to attend."

This was attested to by the farcical dial-in procedure used to give journalists "access" to yesterday's proceedings, which this author can testify consisted of a jumble of echoes, feedback, background typing and interrupting automated announcements whenever a new person joined or left the call. Even in the courtroom itself, a clerk was required to repeat what he could hear of Fitzgerald's submission into a microphone for the press and public's benefit.

In addition to the problems with the hearing itself, Assange's lawyer continued, "With the coronavirus outbreak the preparation for this case goes from difficult to impossible."

Fitzgerald said that "Apart from short phone calls, we've had no direct access to Mr Assange for over a month."

Reminding the court that Baraitser had previously offered to make arrangements for Assange's legal team to visit him in the cells of Woolwich Crown Court—near Belmarsh maximum security prison where he is held—Fitzgerald said:

"Such a course would have been fraught with immense difficulties and significant health risks to Mr Assange himself and to his lawyers. But, in any event this proposal has simply been ruled out by the prison authorities ... on 9 April, this Court informed the parties that attending Woolwich Crown Court on 22 April to visit Mr Assange in the cells as directed '... will not be possible. No prisoners are being physically produced from Belmarsh Prison into Woolwich [Court]'."

Nor can Assange's legal team visit him in Belmarsh without breaking government-mandated lockdown procedures, now in place until at least May 8. Even if these measures were to be lifted before May 18, no time would be allowed before the deadline for the service of defence evidence (May 1) or defence submissions (May 7) and just a week of short visits would be available to

update Assange and take further instructions before the hearing itself.

“The alternative of video conferences,” Fitzgerald continued, “is medically dangerous.” To use the video link facilities, Assange must “walk with prison officer(s) across prison to wait in a videolink holding area with others, then use a small booth repeatedly used by others; all without protective measures.”

Video conferences also do not allow the passing of documents and Assange is still without proper access to a computer.

Summarising the situation, Fitzgerald told the court that if the hearing were to proceed as planned, “Mr Assange will be facing a David and Goliath battle with his hands tied behind his back.”

He added that “in this case both the prosecution and defence agree that it would not be fair to proceed with this hearing by video link” and introduced a statement from the US government supporting the application for an adjournment. James Lewis QC, speaking for the prosecution, confirmed: “In this extraordinary time we would support the application.”

In response to the appeal, Baraitser began reading from a prewritten ruling that indicated she had been prepared to rule against a delay.

She stated that “delay undermines the administration of justice “and that “there is a particular urgency in bringing [Assange’s] case to a conclusion.” But with the US government supporting a delay, she concluded that “remote attendance by the parties in this case will not be appropriate “and that “it is now appropriate to vacate [the May 18] hearing and fix it to a later date.”

The possibility of a bifurcated hearing across July and August was raised as an alternative, as was a single three-week hearing which the courts could only accommodate from November at the earliest. The final dates will be decided at the next case management hearing at Westminster Magistrates Court on May 4.

Baraitser’s ruling was essentially decided on in the US, animated by a fear that the stench of the secret trial being prepared for May would awaken broader opposition and escalate the growing crisis facing the US legal system and the Trump administration.

During the first week of the extradition hearing, in February, evidence was released by blogger Cassandra Fairbanks demonstrating President Donald Trump’s direct involvement in prosecuting Assange. The next month, the prosecution of former CIA employee and alleged WikiLeaks whistleblower Joshua Schulte

collapsed in a mistrial and Chelsea Manning was released from a year-long vindictive imprisonment having given her persecutors nothing. More broadly, the country is facing an unprecedented public health, economic and social catastrophe which threatens to transform the political landscape of America.

While the US works to resolve these problems so the effective rendition can resume, Assange is to be kept in desperately unsafe conditions in the UK prison system, which is being wracked by the coronavirus epidemic. It remains one of the preferred outcomes for the British and American ruling class that COVID-19 does their dirty work for them by killing Assange, who suffers from a chronic lung condition and the effects of psychological torture, in Belmarsh. The danger was underscored yesterday when Fitzgerald informed the court that, like at the last hearing, Assange would not be appearing by video link due to illness.

Despite overwhelming evidence of the risk posed to Assange by his continued imprisonment—while held as an innocent man on remand—Baraitser showed no hesitation in refusing a bail application on March 25. At the time, she claimed that she had “no reason not to trust” in the effectiveness of the government’s and prison estate’s safety measures. She repeated the same claim yesterday—with at least 15 prisoners and four prison staff already dead after falling ill with Covid-19—telling Fitzgerald, “In my view whether it is safe for him to be transported to a video conference room ... is for the prison to make.” In other words, if the defence is to make even extremely limited progress in constructing its case, this must be done by continually risking Assange’s life.

Workers and youth internationally must utilise the crisis facing Assange’s persecutors to redouble the fight to secure his immediate release and the dropping of the Espionage Act charges against him.



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