

Assange granted leave to appeal to UK Supreme Court against extradition

Oscar Grenfell, Thomas Scripps

23 January 2022(updated 24 January 2022, 11:01 AM)

The UK High Court has provided WikiLeaks founder Julian Assange a route to appeal to the Supreme Court in his extradition case against the United States government.

Assange is seeking to overturn the High Court's direction last December that he be extradited, against the earlier ruling of the lower Magistrates' Court that to do so would be "oppressive" on health grounds.

The High Court upheld a US appeal against the Magistrates' Court ruling despite accepting evidence of Assange's intense physical and psychological ill-health. It also did not contest the likelihood that the conditions he would be subjected to in the US, as discussed throughout the entire preceding court process, would likely result in his death by suicide.

The December ruling was overwhelmingly based upon supposed US assurances, issued months after deadlines had elapsed, that Assange's conditions in an American prison would not be as bad as previously accepted.

With numerous caveats and loopholes, the US assurances asserted that Assange would not be held under Special Administrative Measures (SAMs), a regime of total isolation, to which those convicted of terrorism offenses, along with drug lords and major serial killers, are sometimes subjected in federal prison.

The High Court found that the Magistrates Court should have solicited such assurances prior to its ruling.

In response to Assange's request for leave to appeal this decision yesterday, the judges certified a single point of law of public importance, the requirement for an issue to be heard in the Supreme Court. This was: "In what circumstances can an appellate court receive assurances from a requesting state which were not before the court of first instance in extradition proceedings [in this case, the magistrates' court]."

Assange's lawyers had argued that "profound issues of natural justice arise where assurances are introduced by the Requesting State for the first time at the High Court

stage... These issues have never been addressed by the Supreme Court."

As his solicitors elaborated in an explanatory note, "There has long been a general approach by the courts that requires that all relevant matters are raised before the District Judge appointed to consider the case in the Magistrates' Court," but this has been undermined by the treating of assurances as "issues" rather than "evidence", allowing them to be introduced at a later stage in proceedings.

"The defence argument is that despite being as demanding of close evidential scrutiny as the evidence already heard, and despite the content of the assurances being applicable to the testimony of witnesses already heard but not to be heard again, assurances have been afforded a different procedural position."

The assurances in question, accepted in "good faith" by the High Court, are given by a state with a decades-long history of lies and dirty tricks whose record in the Assange case was exposed a month before the High Court ruling as including plans to kidnap and assassinate the heroic journalist.

Based on the statements of 30 former US officials, *Yahoo! News* revealed that the Trump administration and the Central Intelligence Agency (CIA) had discussed kidnapping or assassinating Assange when he was a political refugee in Ecuador's London embassy in 2017. The US indictment was first conceived of as a pseudo-legal cover for a possible CIA rendition.

The character of that indictment, as a concoction from spies and criminals, had been proven in June 2021. Sigurdur "Siggi" Thordarson, whose testimony still forms a crucial part of the indictment, admitted that all his substantive allegations against Assange were lies proffered in exchange for immunity from US prosecution. The star US witness is reportedly facing prosecution in Iceland on fraud charges, having been convicted of child

molestation and embezzlement offenses prior to his latest collaboration with the American government.

Although the threat of imminent extradition has been stayed, Assange stands on thin ice. What began as a case on the most fundamental rights of journalists to expose war crimes and torture has been whittled away by the British judiciary to the single question of how “assurances” of Assange’s safety should be given by one criminal state to another.

The Magistrates’ Court upheld the sweeping US attacks on democratic rights contained in the attempt by a state to prosecute a journalist for publishing true information about its unlawful activities. This forced Assange to defend the US appeal on the grounds of the threat to his mental health posed by extradition and imprisonment in the US. The High Court’s acceptance of the US appeal means Assange’s defence is now limited to the question of when assurances should have been provided.

In keeping with the UK’s courts’ trashing of democratic rights throughout this case, the High Court rejected out of hand the point of appeal that the assurances are worthless because the US asserts the right to withdraw them if Assange violates, or is alleged to have violated, certain conditions.

Assange’s lawyers argued “oppressive treatment” is barred, “whether or not the requesting state justifies its imposition by reference to conduct.” The High Court replied that it did not consider these arguments to “raise certifiable points” for the Supreme Court’s consideration.

It is now technically down to the Supreme Court to agree to hear Assange’s case; it would be highly unusual, though not impossible, for it to refuse to consider an issue certified by the High Court.

If Assange’s appeal is unsuccessful and his case is sent to Home Secretary Priti Patel to rubber-stamp his extradition, then his lawyers can seek to cross appeal the Magistrates’ Court’s original decision on the substantive issues of the case—press freedom, the espionage act and the bar on extradition for political offences. But leave to do so is not assured and would mean years more incarceration as the new appeal works its way through the courts.

Whatever the outcome, the US and British governments are effectively using “lawfare” to ensure Assange’s continued detention, even though he has been convicted of no crime.

He remains in the maximum-security Belmarsh Prison, dubbed the UK’s Guantanamo Bay. With the British government allowing the mass spread of Omicron, in the

latest stage of its homicidal “herd immunity” policy, the prison has reportedly been hit by COVID outbreaks. Assange, because of his fragile health, is at intense risk of succumbing to the virus. The repeated prison lockdowns intensify his isolation.

As Assange’s fiancé Stella Moris said outside the court, “As long as this case isn’t dropped, as long as Julian isn’t freed, Julian continues to suffer. For almost three years, he’s been in Belmarsh prison, and he is suffering profoundly day after day, week after week, year after year.”

WikiLeaks editor Kristinn Hrafnsson added, “It’s a punishment by process, a serious human rights violation. The torture goes on in Belmarsh prison. He has been there for more than 1,000 days.”

The US extradition request should have been thrown out long ago as an infamous frame-up, with those responsible themselves subjected to prosecution. Assange’s appeal should be upheld and his freedom granted immediately.

But the experiences of the last decade, and especially the past three years of Assange’s detention by the British state, demonstrate that no faith can be placed in the judiciary. The more the US case has been exposed as a criminal operation, perpetrated by a lawless state, the more British justice has presented the extradition request as a “solemn” proceeding involving the utmost due process.

Assange’s freedom and an end to his persecution depends on a political movement of the working class. All the governments, official parties and corporate media outlets in the US, Britain and Australia are implicated in the attacks on his legal and democratic rights. These governments are at war with their population, epitomised by their profit-before-lives pandemic policies. Even as Assange is persecuted for exposing past war crimes, war is once again being threatened—against Russia and China—that would have far more devastating consequences than those in Afghanistan and Iraq. It is the mounting social and political opposition among working people these policies are provoking that defenders of Assange and democratic rights must mobilise.



To contact the WSWS and the Socialist Equality Party visit:
wsws.org/contact