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The US Appeals the Assange Ruling

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Global Research, July 08, 2021
Region: Europe, USA
Theme: Law and Justice

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*It took over half a year, but the US government's case against **Julian Assange** continues its draining grind. Even the Biden administration, which claims to tolerate a free press and truthful dialogue with the fourth estate, has decided to exhaust its legal options in seeking the publisher's scalp.*

On July 7, the UK High Court of Justice agreed to hear the appeal from the US government on narrow grounds, though no date has been set for those proceedings. The Crown Prosecution Service, representing the US government, is challenging District Court **Judge Vanessa Baraitser**'s ruling that Assange not be extradited for health and medical reasons.

That judgment accepted the defence's evidence that Assange was a suicide risk, and that the conditions of detention in a US supermax prison facility might well exacerbate it. There was also a "real risk that … Assange will be subject to restrictive special administrative measures [SAMs]." The result of such measures would see his mental health "deteriorate to the point where he will commit suicide with the 'single minded determination' described by Dr [Quinton] Deeley." She was further "satisfied that Mr Assange's suicidal impulses will come from his psychiatric diagnoses rather than his own voluntary act." Given such evidence "it would be oppressive to extradite [Assange] to the United States of America."

The submissions by the prosecution are not publicly available, but have been reviewed by Kevin Gosztola of *Shadowproof*. They contend that the judge erred in law in determining that Assange's extradition was oppressive. The judge should have also been forthcoming to the US government of her concerns or "provisional view" of the risk posed to Assange and sought relevant "assurances".

This latter point is disingenuous; the case by the US Department of Justice was based on shoddy assertions by prosecutors and expert witnesses who betrayed their ignorance about the role played by SAMs and supermax prison conditions. But in making their appeal, the prosecutors were all sweetness, suggesting that SAMs would not be imposed on Assange in pre-trial detention or, should he be convicted, in prison. Feeling the need to draw the line somewhere, they would not promise that other forms of isolation of administrative segregation would not be used. While Assange would not necessarily find himself incarcerated at the ADX Florence in Colorado, it would depend on any "future act" that

would qualify.

As for how Assange would be treated medically, the CPS made another weak promise that he would "receive clinical and psychological treatment as is recommended by a qualified clinician employed or retained by the prison."

The prosecutors were also willing to give another assurance they refused to test at trial. Assange would be allowed to avail himself of the Council of Europe Convention on the Transfer of Sentenced Persons in brokering a prisoner transfer to Australia. The DoJ would give their consent to any such arrangement.

Assange's defence lawyers were terse in rejecting the contention. "They had every opportunity to offer such an assurance at the extradition hearing, since the relevant Council of Europe treaty has been in operation for many years." Any such proceeding pursuant to the treaty, in any case, "could not take place until the conclusion of the trial and all appellate processes, which are obviously likely to be very prolonged." As this was taking place, the publisher would face conditions of isolation "in an alien and hostile environment far from his family."

The prosecutors further sought to weaken Varaitser's judgment by again targeting the testimony of Professor Michael Kopelman, whose evidence they had failed to discredit at trial. That less than noble effort involved claiming that Assange "had a strong incentive to feign or exaggerate his symptoms" aided by his consultation of "scientific journals". The prosecution also accused Kopelman of a lack of partiality "by deliberately concealing information that he had been told about Mr Assange's partner Stella Moris, and their children." Judge Baraitser found the concealment "misleading and inappropriate in the context of his obligations to the court, but an understandable human response." She accepted Kopelman's view that "Assange suffers from recurrent depressive disorder, which was severe in December 2019, and sometimes accompanied by psychotic features (hallucinations), often with ruminative suicidal ideas."

The defence countered in their submission against the appealing prosecutors that Baraitser had not erred in law in concluding that Assange's "suicidal impulses" would stem from his "psychiatric condition" and would not be the result of "his own voluntary act." The "attack" on Kopelman also failed to "recognise the entitlement of the primary decision maker to reach her own decision on the weight to be attached to the expert evidence of the defence on the one hand and the prosecution experts on the other."

In a statement in response to the High Court decision, Moris responded by recounting the miscellany of glaring defects in the case against her partner: the fabricated testimony of lead DoJ witness Sigurdur Thordarson; nefarious suggestions that Assange be assassinated by US agents; surveillance of his legal team and the theft of legal documents; and, for good measure, threats against the family. "The case is rotten to the core, and nothing that the US government can say about his future treatment is worth the paper it is written on." Such a presumption is virtually beyond rebuttal.

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