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Assange Trial Highlights How US Government Is Likely Deceiving British Court To Win Extradition

Mostafa Kamel Mostafa, also known as Abu Hamza, was accused of terrorism offenses and extradited to the United States from the United Kingdom in 2012. His extradition was permitted by the European Court of Human Rights and the British courts because the U.S. government assured them Mostafa would not be confined at a supermax prison in Florence, Colorado, for a “lengthy indefinite period.”

Yet, for the last five years, Mostafa has been housed at ADX Florence in solitary confinement and subject to special administrative measures (SAMs). Mostafa’s attorney Lindsay Lewis maintains the U.S. government misled the courts in order to make it seem like he would not be subject to cruel and inhuman treatment if extradited.

Lewis testified at WikiLeaks founder Julian Assange’s extradition trial on September 29 and told the British magistrate court “the unreliable nature of the U.S. government’s assurances” should be a concern for the court and British authorities in “determining whether to extradite” Assange to the United States.

Assange was charged by the U.S. Justice Department with 17 counts of violating the Espionage Act and one count of conspiracy to commit a computer intrusion that, as alleged in the indictment, is written like an Espionage Act offense.

The charges criminalize the act of merely receiving classified information, as well as the publication of state secrets from the U.S. government. It targets common practices in newsgathering, which is why the case is widely opposed by press freedom organizations throughout the world.

During the third week of the extradition trial, the court heard evidence about Assange's mental and physical health, including how he was diagnosed with Asperger's syndrome and severe depression while detained at Belmarsh prison.

Lewis drew from her experiences representing Mostafa on prison and medical issues that could arise if Assange is brought to the U.S., convicted at trial, and designated for SAMs at ADX Florence.

Mostafa, as Lewis detailed for the court, is "severely disabled." He is a "double- upper-arm amputee, blind in one eye, and suffers from diabetes, hypertension, and a skin condition," known as hyperhidrosis.

In 2007, Judge Tim Workman of the Westminster Magistrates' Court, the same court reviewing the extradition request for Assange, ruled in favor of Mostafa's extradition.

Workman indicated, "ADX Florence could, if "applied for a lengthy indefinite period" result in "inhuman and degrading treatment" that violated Article 3 of the Convention Against Torture.

But Ron Wiley, who was the warden at ADX Florence, told the court it was "highly unlikely" for someone like Mostafa with "type 2 diabetes, raised blood pressure, psoriasis, loss of sight in one eye and bilateral amputation of both forearms," who "required assistance with the activities of daily living," to be placed at ADX Florence.

As Lewis noted during her testimony, Wiley stated, "If it is determined that [Mr. Mostafa] cannot manage his activities of daily living, it is highly unlikely that he would be placed at the ADX but, rather, at a medical center."

That led the judge to declare, "I am satisfied that the defendant would not be detained in these conditions [i.e., ADX] indefinitely, that his undoubted ill health and physical disabilities would be considered, and at worst, he would only be accommodated in these conditions [i.e., ADX] for a relatively short period of time."

"Whilst I find these conditions offensive to my sense of propriety in dealing with prisoners, I cannot conclude that, in the short term, the incarceration in a supermax prison would be incompatible with his Article 3 Rights," Workman concluded.

'There Would Not Be A Risk Of Isolation'

The determination by the magistrates' court hampered Mostafa's challenge through the rest of his appeals.

"'Unless [the] ADX Florence regime ignores [Mostafa's] medical condition and his need for nursing assistance,' there would not be a risk of isolation since a nursing assistant (such as the one Mr. Mostafa saw multiple times a day while in custody in the U.K.) would be

assisting in Mr. Mostafa's activities of daily living," the High Court of Justice declared in their rejection of his appeal, according to Lewis.

When the case came before the European Court of Human Rights (ECHR), the Foreign and Commonwealth Office of the United Kingdom asked the human rights court to affirm the lower courts' decision since it was unlikely Mostafa would be detained in supermax detention. If he was detained at a supermax, it would be "for a relatively short period, given the extent and nature" of his "ill health and physical disabilities."

Furthermore, as outlined by Lewis, it was asserted by the FCO that he would not be put in solitary confinement because he would need to receive care for his disabilities. Any time he spent at ADX Florence would be "relatively short" until a medical evaluation was completed. Then he would be transferred to a medical center.

The ECHR accepted these assurances and rejected Mostafa's appeal.

During cross-examination, prosecutor Clair Dobbin argued multiple times that the U.S. government never represented that Mostafa would not be sent to ADX Florence.

Lewis rejected this argument and criticized the "rubber stamp" process that has kept Mostafa at ADX and "lacked transparency."

After exhausting a series of requests for administrative remedies to improve confinement conditions, Mostafa now has a case in federal court "challenging the conditions of his confinement at ADX Florence and the SAMs that have been imposed."

CIA's View Of Assange Would Likely Factor Into SAMs Designation

Prior to Lewis, Maureen Baird, former warden of the Metropolitan Correctional Center in New York, testified. She oversaw SAMs detainees in the 10 South Unit, who were confined in conditions of solitary confinement during pretrial.

Baird was "surprised" the U.S. government has not said they do not have plans to apply for SAMs in Assange's case. Instead, they have left the door open, despite it being "really unusual to even make that a proposal."

While Assange was in the Ecuador embassy, it is known that he was targeted with an espionage operation by UC Global, a Spanish security company. The defense believes the CIA was involved in supporting the company. (Two former UC Global employees were granted anonymity to provide testimony to the court.)

Edward Fitzgerald, one of Assange's attorneys, asked Baird about the procedure for determining whether Assange is placed under SAMs. She said the attorney general would consult with the intelligence services.

The CIA, as well as the FBI and Customs and Border Protection, would provide input, and what an agency thought about Assange would be an "important factor."

According to the CIA, WikiLeaks is a “non-state hostile intelligence service.” Former CIA director Mike Pompeo described Assange as someone who has “attracted a devoted following among some of [America’s] most determined enemies.”

Oddly, every time a defense witness maintains Assange would be placed under SAMs and in solitary confinement because the U.S. government would want to restrict his communications with the outside world, the prosecution recoils.

Dobbin even questioned Baird’s assertion that the U.S. Attorney’s Office, after consulting intelligence officials, would view Assange as a threat to U.S. national security.

Lewis compared the medical care Mostafa received in the United Kingdom to the treatment he has received in the United States. For example, Mostafa used to receive daily nursing care four to six times a day, which does not happen at ADX Florence.

As Fitzgerald wrapped up his questions for Lewis, he noted at Belmarsh prison Assange is permitted to associate with prisoners. He may make regular phone calls. He has had access to sessions with a psychiatrist.

Lewis told the court this would change for Assange if he was extradited and confined post-trial at ADX Florence under SAMs. He would not receive “anywhere near the same care or accommodations as he had in the U.K.”