



## **Small Victory in the Assange Case: Permission to Appeal US Extradition**

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**Taylor Hudak:** Hi everyone. I'm journalist Taylor Hudak, reporting for AcTVism Munich. It is Monday, May 20th, 2024 and I am outside the Royal Courts of Justice in London, where we just concluded the permission to appeal hearing in the case of WikiLeaks founder Julian Assange. After a two hour hearing, the two High Court judges, Victoria Sharpe and Jeremy Johnson, issued their decision and ruled that Mr. Assange may appeal on two grounds, specifically grounds four and five, which read as follows. "iv) extradition is incompatible with the rights to freedom of expression under article 10 of the European Convention on Human Rights or ECHR" v) extradition is barred by section 81 (b) of the 2003 UK Extradition Act because the applicant might be prejudiced on grounds of nationality".

The ability to appeal on ground nine, which is related to the death penalty, was denied as the court found the diplomatic assurance on this point to be sufficient. Earlier this year, on February 20th and 21st, a previous permission to appeal hearing was held, which we covered at AcTVism Munich. A decision by the High Court was issued on March 26th, in which the court adjourned the renewed application for leave to appeal on three of the nine grounds. As part of the March 26th judgement, an adjournment was given for a period of 55 days until today, May 20th. During that time period, both the defence and the Crown Prosecution Service, representing the US government, were given instructions. Also, the High Court permitted the US government to file diplomatic assurances by April 16th, and they did. The United States issued two diplomatic assurances, which read: "1. Assange will not be prejudiced by reason of his nationality with respect to which defences he may seek to raise at trial and at sentencing. Specifically, if extradited, Assange will have the ability to raise and seek to rely upon at trial (which includes any sentencing hearing) the rights and protections given under the First Amendment. A decision as to the applicability of the First Amendment is exclusively within the purview of the US courts." The second assurance reads: "A sentence of death will neither be sought nor imposed on Assange. The United States is able to provide such assurance, as Assange is not charged with a death penalty eligible offense, and the United States assures that he will not be tried for a death-eligible offence".

Because the US filed the diplomatic assurances, both parties were then able to file additional written submissions on the issue of leave to appeal with regard to the new assurances. However, Mr. Assange was not permitted to submit fresh evidence. Now during today's hearing, the newly issued assurances from the United States and the written submissions related to those assurances were presented and argued before the court today. Defence lawyer for Mr. Assange, Edward Fitzgerald, began by stating to the courts that the defence accepts the unambiguous assurance from the United States that Mr. Assange will not be at risk of the death penalty and will not be charged with a death penalty offence. However, on the second assurance, he says that it is inadequate and only guaranteed that Mr. Assange may raise the issue of First Amendment protections before the US court. It does not guarantee that those protections will be granted. Therefore, Mr. Assange is at a real risk of being discriminated against on the basis of his nationality as he is an Australian and not an American citizen. The defence argues that this is a violation of section 81 (b) of the UK Extradition Act of 2003. The main point or question that was addressed today was if this assurance provided by the United States on Assange's ability to raise and seek before US courts that he should receive First Amendment protections eliminates the risk that he would not be prejudiced at trial by reason of his nationality. According to the skeleton arguments provided by the defence, Gordon Kromberg, the US prosecutor, is the one who raised this point himself when he included in a sworn declaration that, quote, "concerning any First Amendment challenge, the United States could argue that foreign nationals are not entitled to protection under the First Amendment, at least as it concerns national defence information", end quote.

The Crown Prosecution Service argued that permission to appeal should be denied, and if the court still finds a reasonable issue for appeal, then permission should only be granted on ground four on counts 15 to 17 of the indictment. Several technical arguments were addressed throughout the hearing, in which the lawyers presented on matters related to citizenship versus nationality, and the applicability of the First Amendment to non-citizens or foreign nationals not operating on US soil. Near the conclusion of the hearing, defence lawyer Edward Fitzgerald addressed the court and stated that the judges should allow for permission to appeal, given that there are too many issues of facts that remain unanswered and too many issues at law that remain unresolved that have been introduced for the first time by the prosecution. The judges then adjourned court for approximately 20 minutes and returned with their decision. Mr. Assange may appeal on grounds four and five on all 17 counts. Both parties were then given instructions on how to proceed in a court date on the appeal hearing will be given at some point in the future. Meanwhile, Julian Assange, who did not attend today's hearing, still remains in Belmarsh prison, where he has been held without charge for five years. We will continue to cover this case and keep you informed at AcTVism Munich, so please be sure that you are subscribed to the YouTube and Rumble channels, and if you appreciate this work and find it valuable, please consider donating so we can continue with our independent news and analysis. That's all I have for you today, I'm journalist Taylor Hudak, and I'll see you guys in the next update.

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