

IN THE MATTER OF AN APPEAL UNDER S.103 OF THE EXTRADITION ACT 2003

B E T W E E N:

JULIAN ASSANGE

Appellant

v

GOVERNMENT OF THE UNITED STATES OF AMERICA

Respondent

GROUNDS OF APPEAL

- 1.1. The US Government seeks Mr Assange's extradition to face trial for espionage and related charges pertaining to, *inter alia*, the receipt and publication of materials provided to WikiLeaks by Chelsea Manning in 2010-2011.
- 1.2. A criminal complaint and request for provisional arrest was issued on 21 December 2017. An indictment was issued in March 2018. Mr Assange was provisionally arrested under s.73 of the Extradition Act 2003 on 11 April 2019.
- 1.3. On 23 May 2019, a Superseding Indictment was returned, which formed the basis of the extradition request then issued on 4 June 2019, and certified under s.70 by the SSHD on 12 June 2019.
- 1.4. The extradition hearing commenced before DJ Baraitser on 24-27 February 2020 and was adjourned part-heard to September 2020.
- 1.5. On 24 June 2020, the US government published a Second Superseding Indictment, and on 20 July 2020 a replacement extradition request was issued pursuant to it. That was certified under s.70 by the SSHD on 29 July 2020, and Mr Assange was re-arrested in respect of it on 7 September 2020. The first request was accordingly withdrawn and discharged under s.122.
- 1.6. The extradition hearing on the new request proceeded from 7 September 2020 to 1 October 2020. On 4 January 2021, the DJ issued her written ruling, and discharged Mr Assange under s.91.
- 1.7. The US Government appealed against that ruling under s.105 and, following a hearing before Lord Burnett CJ and Holroyd LJ on 27-28 October 2021, the High Court overturned

the DJ's ruling on s.91 (and also dismissed Mr Assange's arguments under Article 3 ECHR) by judgment handed down on 10 December 2021 ([2021] EWHC 3313 (Admin)).

- 1.8. Under s.106(6), the order for discharge was overturned, and the case remitted to the Magistrates' Court. On 14 March 2022, the Supreme Court refused permission to appeal against that decision, and the remittal took effect.
- 1.9. On 20 April 2022, the Magistrates' Court (SDJ Goldspring) sent the case to the SSHD under s.87.
- 1.10. On 17 June 2020, the SSHD ordered Mr Assange's extradition under s.93. The 14-day time limit for initiating appeals under s.103 (against the DJ's ruling) and s.108 (against the SSHD's order) commenced on that day.

Grounds of Appeal against the District Judge's decision

- 1.11. Pursuant to s.103(1) of the 2003 Act, Mr Assange appeals against the decision of the DJ to send his case to the SSHD on the grounds that she erred in deciding:
 - (i) That the request is not an abuse of process, or a breach of article 5 of the European Convention on Human Rights ('the ECHR'), in circumstances where the UK-US Extradition Treaty prohibits extradition for a political offence;
 - (ii) That extradition is not barred by reason of extraneous considerations, pursuant to s.81(a) and/or (b);
 - (iii) That extradition would not be unjust and oppressive by reason of the lapse of time, pursuant to s.82;
 - (iv) That aspects of the request would not be barred by reason of forum, pursuant to s.83A;
 - (v) That the allegations meet the 'dual criminality' requirements of s.137;
 - (vi) That extradition is not in breach of Article 3 ECHR (inhuman and degrading treatment) and should not be refused, pursuant to s.87;
 - (vii) That extradition is not in breach of Article 6 ECHR (denial of a right to a fair trial) and should not be refused, pursuant to s.87 of the EA 2003;
 - (viii) That extradition is not in breach of Article 7 ECHR (a novel and unforeseeable extension of the law) and should not be refused, pursuant to s.87 of the EA 2003;
 - (ix) That extradition does not breach of Article 10 ECHR (right to freedom of expression) and should not be refused, pursuant to s.87 of the EA 2003;
 - (x) That the request does not misrepresent the facts [*Castillo v Spain* [2005] 1 WLR 1043, *Spain v Murua* [2010] EWHC 2609 (Admin), and *Zakrzewski v Regional Court in Lodz, Poland* [2013] 1 WLR 324];

- (xi) That the request is not being pursued for ulterior political motives and in good faith (*R (Birmingham and Others) v Director of the Serious Fraud Office* [2007] QB 727 and *R (Government of the USA) v Bow Street Magistrates' Court* [2007] 1 WLR 1157);
- (xii) That the new conduct contained in the second superseding indictment ought not to have been excised by the Court for reasons of procedural unfairness.

Thursday, 30 June 2022

Edward Fitzgerald QC
Mark Summers QC
Florence Iveson