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IN THE CENTRAL CRIMINAL COURT

The Old Bailey
London

Before DISTRICT JUDGE VANESSA BARAITSER

GOVERNMENT OF THE UNITED STATES OF AMERICA

-v-

JULIAN ASSANGE

MR J LEWIS QC, MS C DOBBIN & MR J SMITH appeared on behalf of the Prosecution

MR E FITZGERALD QC, MR M SUMMERS QC & MS F IVESON appeared on behalf of the Defence

PROCEEDINGS
23rd SEPTEMBER 2020, 10.13-

JUDGE BARAITSER: Thank you very much. Let us wait for Mr Assange. Please be seated. Now, Mr Fitzgerald.

MR FITZGERALD: Yes. My Lady, the first thing – yes, I just need a copy of that – the first thing, my Lady, I indicated yesterday that I would provide you with the adjudication sheet in relation to the finding of the razor blade ---

JUDGE BARAITSER: Yes.

MR FITZGERALD: --- and I have shown it to my learned friend and we have it here.

JUDGE BARAITSER: Thank you.

MR FITZGERALD: So, I think it is admissible as evidence which speaks for itself but you ---

MR LEWIS: We have no objection to it, madam. I just do wish to say that our point remains that this did not feature in the medical cards and there is no evidence that this was regarded as going to a risk of suicide or self-harm, but the fact ---

JUDGE BARAITSER: Well, that is a matter of comment. As far as the ---

MR LEWIS: It is fine, of course.

JUDGE BARAITSER: --- evidence is concerned it is before me.

MR LEWIS: Yes.

JUDGE BARAITSER: Thank you.

(Counsel conferred)

MR FITZGERALD: I am so sorry, my Lady, I am actually just trying to locate the autism diagnostics observer schedule evidence which my learned friend has been provided with but which is relevant to this witness' evidence that is just coming. Yes, it is OK, I have got it. So, the witness may be referring to this, my Lady, so could I just pass it up? My Lady, I too will reserve comment on the fact that there was in fact a charging for possession of an authorised article, a half a razor blade concealed. I will reserve comment until later but you invited me to clarify the position and I have done that.

JUDGE BARAITSER: We do not know the outcome of this report do we?

MR FITZGERALD: I think we can find that too.

MR LEWIS: It was dismissed.

JUDGE BARAITSER: It was dismissed. Do you know that?

MR FITZGERALD: Well, my learned friend ---

MR LEWIS: Well, that is all I am told.

MR FITZGERALD: Oh. We will check that too but clearly there was a charge and we can see it.

JUDGE BARAITSER: The fact it is dismissed maybe relevant to the evidence. Dismissed means not proved, not proved could mean a number of things including he was not in possession of it.

MR FITZGERALD: Yes, well you see governor, there is governor, myself, and Officer Carroll were conducting a routine matrix search. He was asked before we began such if everything in the cell belonged to him ---

JUDGE BARAITSER: Yes, just pause. This is the evidence presented to the governor ---

MR FITZGERALD: Yes.

JUDGE BARAITSER: --- and the governor dismissed the case.

MR FITZGERALD: Yes.

JUDGE BARAITSER: That was the outcome I am told.

MR FITZGERALD: Well, I have to say my learned friend never told me that before but we simply obtained the charge sheet ---

JUDGE BARAITSER: Yes.

MR FITZGERALD: --- and if we need to get further details of what happened at the hearing we will do so but the fact is there is no doubt that prison officers made the allegation ---

JUDGE BARAITSER: Yes.

MR FITZGERALD: --- and brought the charge ---

JUDGE BARAITSER: Yes.

MR FITZGERALD: --- and that is the charge sheet relating to it.

JUDGE BARAITSER: Yes.

MR FITZGERALD: If we need further details we will obtain them too.

JUDGE BARAITSER: Yes, there is no doubt the charge was brought ---

MR FITZGERALD: Yes.

JUDGE BARAITSER: --- but if the outcome was dismissed well, that raises its own questions.

MR FITZGERALD: Well, there could be all sorts of reasons why as you know.

JUDGE BARAITSER: There could be all sorts of reasons. I do know.

MR LEWIS: And I only say that is my understanding. It may be imperfect. I probably should not give evidence. So, madam, but we will check ---

MR FITZGERALD: Well ---

MR LEWIS: --- and find out exactly what the position is.

MR FITZGERALD: We will also check, my Lady. My Lady, so the next witness is Quinton Deeley.

DR QUINTON DEELEY, Affirmed

COURT USHER: And I think you are sorted for water and so forth and I am assuming you would prefer to remain seated while you are giving your evidence?

A. I can stand. I will sit later if need be.

JUDGE BARAITSER: Thank you very much indeed.

Examined-in-chief by MR FITZGERALD

Q. You are Dr Quinton Deeley, is that right?

A. That is correct.

Q. And you are a member of the Royal College of Psychiatrists?

A. That is correct.

Q. You are a Consultant Neuropsychiatrist?

A. I am.

Q. A senior lecturer at the Institute of Psychiatry?

A. That is correct.

Q. And you are also co-author of the Royal College Report on the management of ---

A. Autism in adults.

Q. Autism in adults. I am very grateful. And you have prepared a report for the court dated 14 August 2020.

A. Yes.

MR FITZGERALD: And, my Lady, do you have that? It is at tab 80? Yes.

JUDGE BARAITSER: I do have it, yes, thank you.

MR FITZGERALD: And do you stand by its contents?

A. I do.

Q. And is it right that you also, as background to that, as set out at paragraph 4.1, to get you observed, your colleague Emma Woodhouse, a neurodevelopmental specialist, conduct an autism diagnostic observation schedule assessment over two hours, is that right?

A. That is correct.

Q. And you produced the report in relation to that. That I think has been handed up, my Lady, and my learned friend has it. So, that test, the ADOS test, was administered in your presence and in addition there was, is this right, an interview by yourself over six hours on 9 July?

A. Correct.

Q. And because of Covid, there was a big gap between the assessment being conducted in your presence ---

A. Yes.
Q. --- in January and the interview by telephone over a course of six hours in July?
A. That is correct.
Q. Leading to the report in August. And I will ask you about the various components of the assessment in due course but can I, just going through your report very briefly, is this right that you, in your report, at part 7, at paragraph 7, you deal with the history that you obtained from Mr Assange about a typical day ---
JUDGE BARAITSER: Sorry, did we take the oath? I am not sure we did affirm?
MR FITZGERALD: I am so sorry?
JUDGE BARAITSER: Did he take the oath a moment ago?
A. I took an oath but not on the bible.
JUDGE BARAITSER: You affirmed a moment ago?
A. I affirmed.
JUDGE BARAITSER: Thank you very much. My mistake. Please carry on.
MR FITZGERALD: Yes, I thought he did.
JUDGE BARAITSER: Thank you.
MR FITZGERALD: So, you deal at paragraph 7 with the account he gave of his present circumstances, is that right?
A. Yes.
Q. And then at paragraph 8, or part 8, from page 5 onwards, you set out what he told you about the conditions that he feared he would face if he was extradited to the United States?
A. That is correct.
Q. And you set that out, his fears of isolation in particular at 8.11 and the fears about the new indictment at 8.12, and then at 8.16 his fears as a result of the fate of an individual called Joshua Schulte who was taken from a prison complex to a secure compartmentalisation information facility.
A. Yes.
Q. And so, that is the concerns he communicated to you about what would happen to him if he was extradited to the United States. And then at part 10 on page 9, you deal with the symptoms that he described to you and that you elicited from him of depression.
A. Yes.
Q. Is that right? And you have set those out at part 10 and they include, is this right, at 10.5 his judgment being poor, at 10.8 his current mood being two out of 10, and then his loss of interest, his low energy levels at 10.10, his reduction of concentration at 10.11, the feelings

of guilt at 10.12, the reduction in libido at 10.13, the poor appetite at 10.14, and the problems perceived at 10.15?

A. Yes.

Q. Is that right?

A. That is correct.

Q. So, you have set all those out. And then you go on against that background to deal with the anxiety symptoms which you have set out at part 11, and which include nasty memories and intrusive memories set out at 11.4 ---

A. Yes.

Q. --- and then finally at part 12, you dealt with abnormal experiences and the voices that he is hearing which he deals with at 12.3, over the radio they would be talking about me, and then discussions about him would be denigrating, voices would say things such as his cell is filthy, and then he also had abnormal bodily sensations that he reported to you at 12.6, is that right?

A. Yes.

Q. And you deal with the suicidal feelings he had at part 13 on page 14 including at 13.3 "Every day I think about suicide hundreds of times", is that right?

A. Yes.

Q. Now, I think you have seen the medical records and the extracts from them also in ---

A. Yes.

Q. --- Professor Kopelman's. I just want to deal with one thing. Where the record says no suicidal intent, or something of that nature in a prison medical record, what does that indicate?

A. Well, it can, that can be recorded in a prison medical record if the patient has not spontaneously volunteered a plan to kill themselves.

Q. Right.

A. It does not necessarily mean that the patient has been asked whether they intend to kill themselves or whether they ever planned to kill themselves.

Q. Yes. So, it is just he has not volunteered any suicidal intent?

A. Yes, you cannot, you cannot - that observation alone in the absence of other information does not necessarily entail that an assessment has been undertaken.

Q. I am obliged. And if we go on from there to – he deals with the issue of self-harm and then he deals with the fact of suicides in his social network, including in his family and amongst important friends, is that right, at part 15?

A. Yes.
Q. Yes. And then you deal with the fact that he was on medication at part 22 for depression I take it, citalopram and mirtazapine. Are they antidepressants?
A. Yes, they are.
Q. And quetiapine, can you help us with that?
A. Quetiapine.
Q. Quetiapine.
A. Yes, quetiapine.
Q. Quetiapine, I am so sorry. Quetiapine, can you tell us what that is for?
A. It is classed as an antipsychotic medication. It is also given as an augmenting treatment for depression, with severe depression, and it also has anxiolytic properties.
Q. So it is classed as an antipsychotic.
A. It is classed as an antipsychotic.
Q. And I want you to go on then to the opinion part of your report and, in particular, to the diagnosis of Asperger's syndrome there. Do you deal in paragraph 25 with the diagnosis and then at paragraph 27 with the conclusion that, "Based on the assessment with psychiatric interview, mental state examination review of records, a separate collateral interview with his mother, in my opinion Mr Assange satisfies diagnostic criteria for Asperger's syndrome." Is that right?
A. Yes, that is correct.
Q. And just to break it down, firstly, the ADOS assessment, which you observed that being administered by Emma Woodhouse, is that right?
A. That is correct.
Q. And then there is also the collateral interview with his mother to establish early developmental factors. Is that right?
A. Yes, that is right, to establish the presence or absence of characteristic or autistic traits in childhood in the early developmental period.
Q. And we have that interview and the record of it.
A. We do.
Q. And does that confirm the kind of traits that are typical in the early developmental stages of someone suffering from autism spectrum disorder?
A. It does.

Q. And if necessary, could you go through the various matters about not liking small talk, the literal approach, the not reading people's emotions never a strong point. Those kind of points that are set out there?

A. Yes, that is right.

Q. Which I have just briefly tried to summarise some of the headings.

A. Yes.

Q. So that history is obtained from his mother and, in addition, is this right, there was an interview with Suelette Dreyfus dealing with the later stages?

A. Yes, in his 20s and 30s.

Q. 20s and 30s. And you have then set out, is this right, the diagnostic criteria that in your view he satisfies from page 20 onwards under 27.3?

A. Yes, that is right.

Q. And they include development of selective social – of reciprocal – there are problems of impaired development in that area.

A. Yes.

Q. Of development of social attachments from an early age and then you have set out in part B the various traits characteristic of autism spectrum disorder which are exhibited by Mr Assange. Is that right?

A. That is correct.

Q. And you have set them all out - failure adequately to use facial expression, failure to develop peer relationships that involve a mutual sharing, lack of socio emotional reciprocity, and then you have the problems of conversation, stereotyped and repetitive use of language, lack of varied spontaneous make believe, or when young social limits to play. And then encompassing preoccupations at 3a, preoccupations part objects or non-functional elements of play materials, and then it goes on.

A. Yes.

Q. Because of the shortness of time all I can invite you to do is to confirm if that is right that those are characteristic traits diagnostic of autism spectrum disorder.

A. Yes, that is right.

Q. And confirmed also by the history of early developmental stages from his mother and the history that came from Suelette Dreyfus. Is that right?

A Yes, characteristic traits are evident across the life course.

Q. Yes. And then you have set out at 27.3.2 onwards that certain features stand out. Do you want to just help us on that?

A. Yes. Well, one observation I would make that I make here is that he is an intelligent person and he has the characteristic intellectual phenotype of many high functioning people on the autistic spectrum, that is to say that he has a strong interest in patterns, in systems. He has a capacity for sustained concentration and that is exhibited by that capacity for analytic and systematic thought, deep attention to understanding the intricacies of systems is very characteristic present in scientists, engineers, computer scientists and other related professions.

Q. The high functioning autistic case.

A. Yes, that is right, and then also very prominently, I think, a difficulty in identifying and describing his own emotions and a tendency not to describe emotions in others. A very, I think, prominent focus on his own thoughts and interests and I think what is evident actually both from my assessment of him, but from the collateral interviews also, is a reduced sense in the here and now of the thoughts, feelings, perspectives and experiences of others. So I think with deliberation as an intelligent person, he can bring himself to consider what others may be thinking or feeling, but in spontaneous social interaction day-to-day situations I think there is good evidence that he is rather inattentive and oblivious, in fact, to those kind of considerations.

Q. I just want very briefly then to deal with the fact that Dr Nigel Blackwood in his report noted the presence of possible autistic traits, but discounted a diagnosis of Asperger's syndrome principally because he has readily established a significant number of intimate relationships with women, does not appear bound by routine or disturbed by change in routine, or demonstrate clinically significant deficits in social communication. That is at 27.6.

A. Yes.

Q. You deal with your response to that at 27.7.

A. Yes.

Q. Can you just summarise for her Ladyship?

A. Yes. To summarise that, it is true that many, perhaps majority of, people on the autistic spectrum do not form intimate relationships at all, or successfully. There are a minority of such individuals who do form intimate relationships, or are able to do so. Often, though, in practice struggling with understanding more nuanced aspects of relationships and the thoughts and feelings of partners, and so on. I think in Mr Assange's case his high standing and celebrity for some individuals, I think, would also make him an attractive figure,

an interesting and compelling figure, and I think that is likely contributory to the – involved in the formation of some of his relationships.

In actual fact, there is some evidence from the collateral interview provided by Dr Dreyfus of non-functional routines and rituals, but in actual fact that trait does not need to be strongly present for a diagnosis or autism to be present. In Mr Assange's case he has very intense interests which preoccupy him and which, therefore, impose cognitive routines and not necessarily correlated with a very strong preference for non-functional routines in the external world or in his external behaviour.

Q. All right. I am going to stop you there.

A. Yes.

Q. You may be asked further questions by my learned friend, but you then deal with the question of the diagnosis of depression in part 29 at pages 24 to 25. Do you set out the symptoms of depression that he suffers from at 29.13 of page 25: the core symptoms of depressed mood, loss of interest and reduced energy. You set those out, is that right?

A. That is correct.

Q. And you found those to be present.

A. Yes, I did.

Q. And then you say that in your opinion he satisfied diagnostic criteria for severe depressive episode with psychotic symptoms, and then you say you found him – sorry. You say that that is what he was found to have by Professor Kopelman, and then when you assessed him in July 2020 ---

A. Yes.

Q. --- his depression had improved to moderate depressive disorder ---

A. Yes.

Q. ---- within the context of increased telephone access and greater hope.

A. Yes.

Q. And you refer to the fact that psychotic symptoms were still occurring every few weeks. Is that right?

A. Yes, that is right.

Q. Yes. And then you deal with anxiety at paragraph 30 and found that there was a disorder there too. Is that right?

A. Yes, a range of anxiety symptoms that he experiences.

Q. Yes. And just against that background, the autism spectrum disorder, the depression and the anxiety state, you have dealt with suicidality and suicide risk at part 31, and what is your view as to the risk of suicide if a decision is made to extradite him to the United States?
A. Well, my view is that his risk of suicide would be high under those circumstances.
Q. Yes.
A. It is an act on which he fears which he dreads, he has described as contemplating over the sense of horror and he ruminates about his prospective circumstances at length and I think that is influenced by his autistic cognitive style as well, that tendency to ruminate and become preoccupied with matters. And he has consistently maintained that he would find it an unbearable ordeal and I think his inability to bear that in the context of an acute worsening of his depression would confer a high risk of suicide.
Q. You have set that out at 31.18.
A. Yes.
Q. His depression and anxiety symptoms would worsen and then you have identified a number of relevant factors to the risk. Is that right?
A. Yes.
Q. The loss of his family and support network.
A. Yes.
Q. The perceived humiliation and persecution.
A. Yes.
Q. And the intrinsic stresses of trial process when detained.
A. Yes, that is right, and I think it is important to emphasise that his risk of suicide is, of course, influenced by his appraisal of his prospective circumstances and he views it as an intolerable ordeal. He views it as unjust. He has a sense of himself as a prominent public figure. He views under those circumstances as essentially an exemplary punishment in which an example is being made of him, and all of that I think compounds his sense of its unbearability, and I think all of those factors at an individual level, the level of his judgment and decision-making, would greatly increase his risk of suicide.
Q. And you have dealt finally in your last few sentences of the report with what role the factor of Asperger's syndrome would play in that. Would it affect his ability to manage the conditions?
A. No. Well, first of all, the rate of mental disorders is greatly elevated in people on the autistic spectrum. The ability to tolerate distress in general is reduced in people psychological emotional distress is reduced in people on the autistic spectrum, and the rates

of suicide are higher in people on the autistic spectrum compared to the general population. So I think on those general grounds, by virtue of having a diagnosis of autism, he would be considered to be at a higher risk of completed suicide, but I think in his particular case there are the rather individual factors to do with his circumstances and his appraisal of his circumstances and his tendency to a form of obsessional rumination and a rigidity of thought whereby he is unlikely to revise his firmly entrenched opinions about his likely fate which also from his point of view are informed by other lines of evidence.

I think all of those amount in his case to a significantly increased risk suicide.

Q. And you say finally that the cognitive rigidity and intense focus associated with Asperger's Syndrome would conduce to greater rumination, increasing anxiety and worsening low mood.

A. Yes.

Q. And depression and then, is this right? It is in those circumstances his risk of attempted suicide would be high.

A. Yes.

Q. And so, in that context, would the suicide be driven by and influenced profoundly by the underlying disorder, the Asperger's Syndrome disorder and the depression?

A. Well, I think he – the acute worsening of his mood state in keeping with his depression I think would render the prospect unbearable of extradition and that would interact with and be compounded by his excessive rumination and rigidity of thought.

Q. And to the point, well, there are suicide protocols there to prevent him from committing suicide, what do you say?

A. Well, so there is the question of actually, of course, what his risk is and then the capacity of services to manage that and so, I think the reality of the situation is that people who are determined to kill themselves do kill themselves, both within the British prison estate and also within its American counterpart, not least at the moment the conditions of high security in the United States and that is evident in the report of Kupers.

Q. The report of?

A. Kupers.

Q. Yes, we have that in the – my Lady, that is the report of Mr Kupers which is K-u-p-e-r-s, which is in the defence bundle. You say you have seen that report and you rely on it.

A. I have seen that report.

Q. And that is, yes Terry Kupers, it is tab 9 in the Stanford Law policy and I think the statistic there is of a very high rate of suicide in those who are in solitary confinement, is that right?

A. Yes. From memory, it is about half of the completed suicides are amongst that small proportion of people in solitary confinement.

Q. And also, he there deals with the question of the manoeuvres taken by such people intent on suicide of saying, "I'm better," and then getting out of the observation cell and then committing suicide.

A. Yes, and Mr Assange, it has to be said, has also exhibited some version of that pattern in his time at Belmarsh insofar as he has been reluctant to disclose certain features of his mental state for fear that it would lead to greater isolation from his point of view in healthcare.

Q. My Lady, that particular passage is at pages 136 and 137 of the Kupers article, which are at pages 192 and 193 of the pagination of the bundle.

JUDGE BARAITSER: I will just mark it up, thank you.

MR FITZGERALD: So, in any event, if he is, if he survives to the extent of getting to America and being detained in prison, particularly if it is in isolation, what effect would that have on his mental state?

A. I think it would cause severe deterioration of his mental state. I think it is evident in terms of the fact – so Mr Assange's mood state does fluctuate, so we have seen that within the course of his time at Belmarsh that he had a severe depressive episode in 2019 during the period in which he was in healthcare which subsequently improved to a moderate depressive episode and I think there is consensus amongst psychiatrists who have seen that he has been moderately depressed for much of this year.

So, his mood state is influenced by ameliorating factors and exacerbating factors. There are things which improve his mood state and things which cause it to deteriorate. The things which have likely contributed to improvement of his mood state would be his medication and in particular, I think, increased communication access to family and also, actually, critically, the perception, his hopefulness about his case, his perception of the progress of his legal case. It appears to be an important determinate of his mood state, so should he be extradited, based upon his view of the meaning he attaches to that and his prospective circumstances and the conditions of probable isolation to a greater or lesser extent, those would all be expected on the basis of his past behaviour to cause a deterioration

in his mood state, so his depression would worsen. He would become severely depressed, very severely depressed most likely.

Q. And in those circumstances, do you think that there is a high risk of suicide?

A. I do.

Q. My Lady, those are the only matters I wish – you have provided the various assessments in the – first the ADOS assessment and then the interviews, is that right?

A. That is correct.

Q. And if necessary, you can go through those.

A. If needed.

Q. Pointing out the trades that are – yes.

JUDGE BARAITSER: Thank you very much, Mr Fitzgerald.

Cross-examined by MR LEWIS

Q. Mr Deeley. I do not know if you are comfortable. With her Ladyship's permission, you are welcome to sit down if it helps or not.

A. I will stand for the moment, but if I become uncomfortable, I shall sit down if that is alright.

Q. And there is another chair behind, in fact, which is probably more comfortable than the one in the bench. Now, Dr Deeley, it is right that you are, in fact, a neuropsychiatrist.

A. I am a general adult psychiatrist. I have a certificate for specialist training in general adult psychiatry with an endorsement in liaison psychiatry so at the time I was doing it, there was no specific endorsement for neuropsychiatry, so a neuropsychiatrist is essentially a general adult psychiatrist who works in a neuropsychiatry ward.

Q. I am just looking at the front of your report. It just says consultant neuropsychiatrist. Is that right?

A. Yes. Well, I work in a, I am a developmental neuropsychiatrist so I work with adults with autistic spectrum disorders and other neurodevelopmental conditions such as ADHD. I work in an acquired brain injury clinic which is a neuropsychiatry clinic, but much of my practice both in training and at the present time, including private work, is in general adult psychiatry, so I see a very wide presentation of psychiatric disorders.

Q. I see. Would you describe yourself as a forensic psychiatrist?

A. So, I have been, I am not, I do not have specific training in forensic psychiatry but I have been a consultant in low secure services, in different low secure services and therefore, I have been the responsible clinician for patients who have been in contact with the Criminal

Justice System who have moved in and out of prison and detained under forensic sections such as section 37, section 37/41 and so on.

Q. Just give us a flavour, Dr, how often do you go to prison?

A. How often I go to prison? Probably, over the past ten years, probably one to four, one to five times a year, something like that.

Q. So, in this past year, how many times have you been to prison?

A. I have been to prison once this last year to see Mr Assange in January.

Q. Because you were asked about prison notes and I just wondered why you felt you were so qualified to opine on the prison notes if you have only been to the prison once in the last year?

A. Well, I think, so I have reviewed the prison notes and I would make two observations. I think that Mr Assange himself has identified that he is not, that he is selective in who he engages with and in terms of the degree of disclosure of his thoughts and feelings, his mental state and it is also true that the amount of information documented within the prison notes varies in terms of its level of detail and supporting evidence.

Q. We will come to those in a moment. Let us just have some general position, Dr Deeley. Now, you found after your examination and diagnosis, that Mr Assange is moderately depressed on the IC-10 classification when you examined him a month or so ago. Is that right?

A. Yes, in July.

Q. And I can save some time on this. Do you know Professor Fazel?

A. I do not know him personally but I know of him.

Q. You know of him.

A. I do.

Q. And do you know Dr Blackwood?

A. I do know Dr Blackwood professionally and personally.

Q. And they also find that he is moderately depressed, so we can move directly away from any diagnosis on there because it is not common with your diagnosis or indeed the other four psychiatrists that he is on the autistic spectrum, so that is what I want to concentrate on.

A. Yes.

Q. Now, autism is not something that occurs later in life, is it? It is developmental.

A. Yes.

Q. And it presents in early childhood.

A. Yes, it presents within childhood.

Q. You are either autistic or you are not basically, in lay terms.
A. Well, it is a spectrum ---
Q. You do not develop into being autistic.
A. I think a qualification could be introduced there, so within DSM-5 and ICD-11, it is recognised that a person's autistic traits may become evident as their circumstances change, particularly if their circumstances change in a way that they are less familiar with, they are exposed to novel stresses, so underlying autistic traits may be less evident but then exposed or unmasked, if you like, by a change in circumstances.
Q. But they are always there.
A. Well, they may fluctuate in severity or the difference that they make somebody's day to day functioning as circumstances change, but the assumption is that they are always there, but perhaps not evident or expressed.
Q. Right. So, let us go to page 20 of your report, autism spectrum disorder, 27.3, page 20 and to be diagnosed within the classification, there must be abnormal or impaired development before the age of three, is that correct?
A. Yes, that is the case within ICD-10. That criterion has been relaxed within DSM-5. It has to be within the childhood period.
Q. Childhood period?
A. Yes, yes.
Q. Now, we do not have much information on that – I will come to the interviews in a moment, but I am simply making the point you can now make a diagnosis because it is, in fact, a lifelong condition. You are looking back.
A. Yes.
Q. Thank you. Now, your diagnosis is based in part on the test Ms Emma Woodhouse carried out, the ADOS autism observation schedule.
A. Yes.
Q. And at paragraph 2 of 27.11, it is clear that Mr Assange refused to engage with two components of the adult assessment. Which components were they?
A. One of the components was a demonstration task in which he was asked to act out brushing his teeth.
Q. And what was the other one?
A. The other was for him to answer questions about routine daily activities relating to self-management or self-care, which he refused to answer them because he found them demeaning.

Q. And I think it is right that it is highly unusual for people to refuse to deal with these tests, is it not?
A. Correct.
Q. Now let us just look at your analysis. That it is right, at the time of the face to face examination which - it is not the examination, it is an observation you took, I think it was two hours when you observed Ms Emma Woodhouse carrying out the test, that is in January of this year?
A. Yes.
Q. And, at that time, you have said he was severely depressed with psychotic symptoms?
A. Yes.
Q. Now, and we will come back to that in a moment ---
A. His psychotic symptoms were likely to be improving at that point because Olanz - Quetiapine had been introduced in November 2019, but he was ---
Q. But you stand by your position that you have said in your report?
A. Yes.
Q. So that is, so ---
A. I think that he was transitioning out of severe depression but he was severely depressed at that point.
Q. So, when these tests were carried out, they were carried out on a man you have said had severe depression and psychotic symptoms, that is right, is it not?
A. Yes.
Q. And, before a diagnosis can be made of autism, there has to be six symptoms present before you even get on to the classification, is that not right?
A. Well, if you want to make a full diagnosis of autism or autistic spectrum disorder, but in actual fact you can make a diagnosis within ICD-10 of atypical autism, which is still an autistic spectrum condition but where not all of the features of autism need to be present within any one domain. And you can also make a diagnosis of a pervasive developmental disorder not otherwise specified where an even lesser number of autistic features can be present and it still amounts to an autistic pervasive developmental disorder.
Q. Did you make a finding of atypical autism in this case?
A. No, I made a diagnosis of ---
Q. So that is just theoretical?
A. It is not theoretical. It is an important consideration because, actually, the relevance of a diagnosis of autism is not merely in the number of autistic symptoms present but the

difference that a particularly autistic trait or symptom makes to somebody's functioning within a relevant domain.

Q. I just - I want to be firm and perhaps put it on a lower level, you did not make a diagnosis of atypical autism, did you?

A. No.

Q. So could we just go through your actual diagnosis here and this requires, your actual diagnosis requires here, as you have put out, a number of criteria?

A. Yes.

Q. And we can see in paragraph 27.3 that the social interaction criteria appear to be most important. You need at least two from category 1 and then you need at least one from categories 2 and 3, which we see on page 21, that is right, is it not?

A. Yes, that is right.

Q. And what you have done is, as I understand it, correct me if I am wrong, but what you have done is where you have found the trait to be clinically marked, you have put it in bold and when you have said it is present but milder you have put it in bold italics?

A. Correct.

Q. So when we look at this, there are, in fact, only two traits, one from category 2 and one from category 3 that are in bold, so that is 2b - I will not say "or not to be" - but it is 2b and 3a?

A. Yes.

Q. Is that right? So 2b and 3a are the ones which you say are clinically marked?

A. Well, it - so what I am doing here is, in terms of picking out, yes, the severity or prominence or markedness ---

Q. Yes.

A. --- of the trait, that is right.

Q. And the milder ones you say are in - you put in the italics?

A. Yes, but still sufficient to be present, of course, because it is recognised that there can be a variation in the severity of autistic traits.

Q. Yes.

A. So there is - I might add, actually, just for the purpose of clarity that this particular method of assigning diagnosis is used in the Adult Autism Assessment Clinic of the Maudsley Hospital, which I was part of for many years doing weekly assessments, and it is, in fact, important and clinically useful to be able to weigh the severity, the presence or absence from autistic trait but also indicate its severity because it has a bearing upon

formulation and the support needs of a person.
Q. Let us go through them in turn and we will pick up the ones you have put in bold first. 2b, that is the conversational interchange, "Failure to initiate or sustain it", yes?
A. Yes.
Q. Now would you not agree, certainly at the time of your interview on the phone, which was in July, Mr Assange was highly animated by his present predicament?
A. Yes.
Q. And, therefore, he needed to ensure that those who he is communicating with, i.e. lawyers or you as a doctor, understood his position?
A. Yes.
Q. So he may, in fact, have over-demonstrated what you say here is - because this is like talking over someone, if I put it simplistically, that type of thing?
A. Yes, but that observation, that judgment, is not based upon that interview in isolation. That observation is made by a wide number of informants about Mr Assange and many clear examples are provided in the autism diagnostic interview report provided by doctor - the interview with Dr Dreyfus.
Q. But there are a huge number of examples ---
A. I might also add - sorry.
Q. --- on the other side, are there not, Dr Deeley, which you have not put in your report?
A. Sorry, what - oh, that is - I would be interested to ---
Q. Well, look, we will have it in a moment.
A. To discuss them.
Q. Would you give me one moment, my Lady. There is a - so the first thing is we are talking about here conversational interchange and were you aware that he conducted, for example, questions and answers on video interchange at the Frontline Club, were you aware of that?
A. I did not know that.
Q. So you have not seen a video and you have not got any examples of his communication skills in that?
A. What I would, what ---
Q. Well, I will tell you what, Dr ---
A. Yes.
Q. --- we will show it to you and then you can comment on it. I think we can play it now.

A. OK.
MR LEWIS: We will play just a couple of extracts?
JUDGE BARAITSER: All right.
MR SMITH: My Lady, I cannot get the ClickShare working. It was working. Of course, in the scheme of things, it was working this morning.
JUDGE BARAITSER: Yes.
MR SMITH: But I have seen a flashing white circle that indicates it is no longer working.
MR LEWIS: I will come back to it.
MR SMITH: I can certainly ask someone next door if they can help us.
MR LEWIS: I would rather not break.
JUDGE BARAITSER: Is there an expert next door?
MR SMITH: Apparently so, yes.
MR LEWIS: We will check.
MR SMITH: If I may be given leave, I will go ---
MR LEWIS: We may have to come back.
JUDGE BARAITSER: Please.
MR LEWIS: Let me just ask you this question then, Dr Deeley. Were you aware ---
JUDGE BARAITSER: We do have a picture, do you want to come back to it?
MR LEWIS: Oh, we do have it. We can play it now, that is good.
USHER: Will the journalists next door be able to see this?
JUDGE BARAITSER: Yes, because it will show on the video, will it not.
MR LEWIS: I have got another couple of questions on this topic.
JUDGE BARAITSER: Oh, right, we will carry on then, thank you.
MR LEWIS: So shall I just ---
JUDGE BARAITSER: Yes, please do.
MR LEWIS: It is still on this because we are still looking at 2b, yes.
A. Right.
Q. We are still looking at 2b. Were you aware that Mr Assange hosted a television chat show, 2011, called "The Julian Assange Show" for the TV programme Russia Today?
A. No.
Q. Because it does seem inconsistent with 2b for someone to be a chat show host on the television, does it not?
A. Not necessarily. I could qualify that. The - it is remarked in the interview with Dr Dreyfus that, when Mr Assange is talking about topics about which he is knowledgeable

or has an interest, he is able to talk about them fluently and at length and that is not unusual, actually, for high functioning intelligent people on the autistic spectrum. There can be very marked difficulties in talking about topics that they are not interested in and/or experts in and the actual more subtle to and fro of social interaction, even for somebody who can actually manage very well in set piece interview scenario, can be much harder. So I can provide an example of that. It ---

Q. Well, Dr, I am happy to speak at length but it has just gone above my head at the moment. I want to - if I may, can I try the question again. You can finish your answer ---

A. Yes.

Q. --- but it is just, because what I am looking at is in 2b, "Failure to initiate or sustain conversational interchange in which there is reciprocal responsive to the communications of another person", and the question I am asking you at the moment is: is that consistent with hosting a telephone - a television chat show?

A. It is if there is an extremely well-specified format that is congruent with an area of knowledge and a role that the person with autism is expected - is familiar with because, actually, what happens with intelligent people with autism very often is that it is actually outside those, if you like, set piece or highly rehearsed scenarios of more spontaneous social interaction on a day-to-day basis which prove much more challenging, where the obliviousness to the social intentions and perspectives of other people are much harder to read. And so the example I wish to offer, actually, is there is a well-known personality in the United States called Temple Grandin, who has written at length about the experience of being autistic and gives very compelling talks about the experience of being autistic in which he can - she includes jokes and so on and can hold an audience well, but it is often said that when you speak to her afterwards and she is outside that very rehearsed familiar routine that she struggles much more to manage that face to face more spontaneous interaction.

Q. Well ---

A. So I think that pattern is actually quite characteristic of at least some high functioning people on the autistic spectrum.

Q. Well, Dr, you are trying to give an objective opinion to this court, are you not?

A. But I am providing a relevant example ---

Q. No, no, but please answer the question, are you trying to give an objective opinion to this court?

A. I am.

Q. Thank you.

A. I am.
Q. And an objective opinion, if we have got material which shows opposite to the trait, you should take it into account, should you not?
A. Yes.
Q. And, as I understand it, you did not know he had hosted a chat show and you did not know he did questions and answers?
A. That is correct.
Q. So you have got to take those now into account, have you not, rather than simply trying to excuse them away before you have even seen what they are?
A. Yes, although I was providing some relevant context for the court.
MR LEWIS: Well, I think we can play some of the front - this is just from the Frontline Club and it is mentioned in the evidence.
JUDGE BARAITSER: Yes.
MR LEWIS: And I am going to blame Mr Smith because he has chosen the extract. I have not. So, whatever he has got, he has chosen two extracts.
(Video played)
JUDGE BARAITSER: There is a second slip is there?
(Video played)
MR LEWIS: So, Dr Deeley, would you agree that that was, just by your previous criteria, you were talking about chat shows, that was not rehearsed?
A. No, I would not agree actually. I think that is actually a very good example of what I was talking about in the Temple Grandin example. That is to say it is a highly rehearsed social role of him talking about a topic about which he has expertise in a highly structured question and answer format in which he presents to a question on which he is an expert with an impressive monologue. There is not the quality of – what – there is not the quality of having to respond to informal, an informal social interaction in which he is required to notice and attend to the social queues of his interlocutor and respond and modulate his behaviour accordingly. So, it is, he can certainly, he is in his comfort zone I think, Mr Assange, in that particular type of role but it is quite distinct from the sorts of examples provided by Dr Dreyfus of some, in some detail in the ADR report which he provides. And I could expand on that at some length if you wish?
Q. Well, Dr, are you trying to help this court or are you just trying to advocate a cause ---
MR FITZGERALD: This is just ---
Q. --- in your opinion?

MR FITZGERALD: My Lady, this routine stereotypical question from my learned friend is wholly inappropriate in this circumstance where he is given a focussed intelligent, intelligible answer to a question and my learned friend just throws in are you trying to help this court?
JUDGE BARAITSER: I think that is a reasonable question and I am sure there is an answer to it.
MR FITZGERALD: All right. OK.
A. Well, to take it in steps, I am trying to help the court so I understand that my duty is to the court.
Q. So, we are going to move away from 2b in a moment but I just want to understand your answer to this, that a person who has got the ability to be on a question and answer programme, host a televised chat show, you are saying is still consistent with a failure to initiate or sustain conventional interchange are you?
A. Yes.
Q. Thank you.
A. And ---
Q. Let us go to 3a.
A. --- and I can contextualise that fully if you wish to pursue that point?
Q. Well, we will move to 3a. This one, an encompassing preoccupation with interests which are abnormal in their intensity and circumscribe nature through not in their content or focus, we probably agree with you on this one, Dr Deeley.
A. Yes.
Q. I mean, that is like a lot of intelligent people, mathematicians, computer scientists can be like that, can they not?
A. Yes.
Q. So, we agree with you on that one. So, those were the two clinically marked ones you talked about. We will now look at some of the milder ones you say. And 1a, that is the failure to use eye plays, facial expressions and gestures.
A. Yes.
Q. Right. I just want to just show you because you may have missed it when you have looked at the notes. You said you have read all the notes from Belmarsh but presumably you have not studied them in great detail?
A. I have read the notes.

Q. Right. So, just on your right there is volume 1. I will just take you to a few of the notes for instance. And what I will do is I will just run through a few of them and then ask for your comment at the end because otherwise ---

A. Yes.

Q. --- it will take too long if we ---

A. Yes.

Q. --- ask for a comment every time because they are all pretty much on the same flavour.

A. OK.

Q. You understand?

A. Yes.

Q. So, if we just went for instance to page 4, this is 11 April, "Good eye contact, intermittently looking around the room, dressed in a black suit, black – waved to the gallery and gave a thumbs up, inappropriate smiling at times.". I am just going to go to a selection. Go to 41, obviously at the first perforation, this is 15 May statement, "Engaging with good eye contact", I am just concentrating on eye contact at the moment. Page 45, just below the first perforation, examination, "Emotional during assessment, good eye contact, insight good ---

A. I am just – I am wondering if I have the same notes as you actually?

Q. Oh I am sorry if you do not?

JUDGE BARAITSER: Is that volume 1?

A. Is that medical 1?

JUDGE BARAITSER: Yes.

Q. And I am looking at the bottom page numbers.

A. Oh I see, yes, OK. Yes. Of course, yes.

Q. Yes. So, what we have done is we have paginated the bundle throughout.

A. Yes, OK, yes.

Q. So, page 45 we were on ---

A. Yes.

Q. --- a few lines down from the first perforation. "Emotional during assessment, good eye contact, insight good.". Do you see that? 18 May now we are on. Yes?

A. Yes.

Q. And if we went to page 49, 20 May, picking up obviously the first perforation, "He was polite, good eye contact.".

A. Yes.
Q. If we went to page 55, 21 May, examination, "Afebrile, slightly anxious, good eye contact, eager to interrupt and interact.". Go to page 110, this is July, just taking them by months, middle of the page, 13 July, "He was quiet, calm, pleasant in approach, good eye contact, polite, interacted well with other patients and staff.". Page 112, 16 July, just a few lines below the first perforation, "Good eye contact, feeling calm, interacted well with other patients.". 122, this is end of July, 30 July, against the first perforation, "He was calm and pleasant in approach, good eye contact, feeling settled.". If we look at page 139 towards the bottom of the page, about 10 lines up, we have now moved to August, in fact we are at the top, 10 August, "Was quiet and calm, pleasant in approach. Good eye contact. Interacted well." 11 August, still on the same page, 139, "During the conversation made very good eye contact, smiled at times and laughed. Articulated well." We then go to page 157, next month, 2 September, just above the first perforation, "He maintained a good eye contact." We go to page 173, later on in September, between the two perforations, "He made good eye contact but appeared low in mood." 210, this is going to November, "In approach good eye contact." Now, I will not take you to all of these, but they are all pretty much of the same mark, Dr Deeley.
A. Yes.
Q. I mean they are all showing that he has got good eye to eye gaze, et cetera. I mean does that help you when we are looking at 1b? Sorry, 1a.
A. 1a. So the ---
Q. I am sorry, I should ask before you start. Had you read all those when you made your report?
A. I had read through the notes. I had not read every single reference to eye contact that you have pointed out, but I have been through the notes, yes. So I think the comment I would offer about that is it is important information, it does have to be weighed carefully and placed within the context of the totality of the information in the case, and so when you are judging the quality of somebody's eye contact, it first of all has to be viewed within the context of all of their non-verbal communication, which would be the use of gesture, body posture and facial expression, and it would also have to be assessed within, if you like, more formal settings when somebody is being interviewed when people can learn to direct their non-verbal communications, such as eye gaze, to their interlocutor, as well as more spontaneous interactions. So if we think about that item, I am not asserting, it is not concluded that Mr Assange has a complete absence of non-verbal communication as is

exhibited by people who exhibit this trait very severely on the autistic spectrum. That is not being asserted. It is a judgment about the amount and quality of non-verbal communication that he exhibits within social interactions, and that view is not – so relevant observations were made in the ADOS assessment in January. I do accept that it is acknowledged within that report that he was depressed at the time and that is an alternative explanation for a reduction in non-verbal communication.

So the other sources of information were the interviews with his mother about the autism diagnostic interview in childhood. Also the examples of Dr Dreyfus, which show qualitatively unusual use of gesture and reduced eye contact are reported within that report, and actually I also have to say the other interviews conducted by Dr Kopelman with people who have known Mr Assange, which also include information about this qualitatively unusual social behaviour which he exhibits. So I am not asserting, it is not asserted in this report, that Mr Assange has no non-verbal communication, a profound deficit of non-verbal communication that is sometimes seen in people on the autistic spectrum.

Q. So you have mentioned that ADOS. I mean the ADOS, you simply observed for two hours in January.

A. Yes.

Q. That is the only observation you have had with Mr Assange, is it not, because the other one was on the phone.

A. That is correct.

Q. So for two hours when you were observing, you were relying on a report when a person is taking a test, a tick box test, who is severely depressed with psychotic symptoms. I mean that is just not right, is it, Dr Deeley, to make any observation, any meaningful observation on that?

A. Well, a couple of observations. First of all, it is not a tick box test, it is a qualitative assessment with a number of probes of non-verbal communication, reciprocal social interaction, many of which the person being assess is unaware of. The other point to say is that within the diagnosis of autism, the autism diagnostic observation schedule is accepted as a highly informative and useful assessment, and that is absolutely standard in the assessment of autism in this country and in other similar countries. I would also add that we were careful not, or I was careful not, to make the diagnosis rest solely upon a cross-sectional assessment in January when he happened to be severely depressed, and hence the importance of collateral information, so considerable efforts were taken to conduct relevant diagnostic interviews with people who have known Mr Assange well for many years.

Q. Would you normally carry out an ADOS test on someone who you say was severely depressed with psychotic symptoms?
A. You would if circumstances require it, that is right.
Q. How many, in your practice, have you done that?
A. Well, the prevalence of co-existing mental disorder in people on the autistic spectrum is very high, it is much, much higher than the general population. Within a clinical assessment setting that prevalence is much higher, so most of the people you will assess will have co-existing mental health problems, whether it is depression and anxiety disorder, schizophrenia, ADHD, or any other condition that is common in the population. And so that is why the assessment is weighted both by an observational assessment, which includes, of course, interview questions as well, it is not merely observational, but it is also weighted by supplementary sources of information, such as a clear, detailed developmental history and, ideally, contemporaneous information from a third party source about the person's functioning over the life course, which is present in this case, I have to say.
Q. Now, Dr Deeley, now you have agreed with me where you have brought up that Mr Assange's reduced gesture may be associated with depression, why did you not put that in your report?
A. Well, I have to say that it is included within the ADOS report provided by Emma Woodhouse that some of the features may be influenced by co-existing depressants. So I think there is appropriate caution registered within that report. And for my part, I am expressing a summary judgment based upon all available lines of information which are not merely restricted to an assessment conducted in January.
Q. So please just answer the question. Why did you not put it in your report when it is contrary to the position, so that the court could assess it? Why did you not put it in the report?
A I did not put it in the report because my duty is to assist the court in reaching a conclusion and the conclusion I had reached was that Mr Assange has an autistic spectrum condition.
Q. But why did you not put it in the report so people could consider that the reduced gesture may be associated with depression? Why did you not put that in there?
A. Because there are multiple lines of evidence to support the opinion that he has a qualitative abnormality of social communication.

Q. Also in the ADOS report it said, "Mr Assange's eye contact was slightly reduced but overall it was well modulated during social interactions." Why did you not put that in your report? Why did you omit that comment from your report?

A. He did not demonstrate directed facial expression and so that is included within the report. So what I am relying upon in the judgment in the coding of his non-verbal communication, as I said, is a summary judgment when weighing up all of the available information. And I would emphasise actually, I think this underscores the importance within assigning the weight to particular diagnostic features, there is a distinguishing between present but mild versions of particular characteristics and more clinically marked versions of clinical characteristics, which I was careful to do in assigning the diagnostic criteria. I would also point out actually that there are certain features of the diagnostic criteria which I coded as absent, and other features of the diagnostic criteria which I included as unable to code because of absence of sufficient information. So I think that I did exhibit a careful process of weighing the available lines of evidence to reach an opinion about the presence or absence of particular traits and their markedness or otherwise .

Q. Madam, I am moving on to 1b, but I do not know if that is appropriate time. We have generally been breaking after an hour and a half. Would it be ---

JUDGE BARAITSER: We had a slightly late start. Did you want to break now, or can we just press on a little bit longer?

MR LEWIS: I will certainly finish within half an hour.

JUDGE BARAITSER: In that case, let us use the half an hour now then if you are willing and happy to do so.

MR LEWIS: Thank you.

JUDGE BARAITSER: Do you need a break?

WITNESS: No, I am fine.

JUDGE BARAITSER: No, all right. We will carry on.

MR LEWIS: 1b, "Failure to develop in a manner appropriate to mental age despite ample opportunities. Peer relationships that involve a mutual sharing of interests, activities and emotions." Now, Dr Deeley, he has maintained many long-term partnerships and has fathered five children. Is that not inconsistent with trait 1b?

A. Not in itself. So the observation that Dr Dreyfus made was that he has had very few lifelong friends and that the people who have befriended Mr Assange have all had to make allowances, or accommodate what are generally considered by his friends to be qualitatively unusual or odd aspects of his interpersonal functioning.

Q. By the way, is Dr Dreyfus a medical?
A. No.
Q. She is not.
A. No. I would also add actually as a general observation, actually, I think this is relevant, that when conducting collateral interviews for them to be informative does not require that the person you are interviewing is medically qualified.
Q. Did you know that Mr Assange was given sole custody of his son by a court after a custody battle and brought him up?
A. Yes.
Q. Well, would it not occur to you that no court is going to award sole custody of a child to a person who has, and I am quoting from 1b, "Failed to develop in a manner appropriate to age and cannot keep peer relationships"?
A. No, because that is a – well, I would make a number of observations on that. I mean clearly I am not familiar with the detailed reasoning and assessments undertaken by the court at the time, but it is the case that some people on the autistic spectrum can function as parents and can also manage some of the demands of everyday life and function independently. So it does not preclude that ability.
Q. It does not preclude, but it is not consistent with, is it?
A. I do not accept that. This is a point about development, so failure to develop peer relationships that involve a mutual sharing of interest, activities and emotions. So the observations offered by Mr Assange's mother on that is that he had essentially had a preference for solitary play, but he did develop in his teens, in particular, a small number of friendships with boys who shared his intense interest in computing, so they were characterised as rather kind of geeky type of friends is I believe the word that she used. And again I would say that that is not untypical or inconsistent with a diagnosis of an autistic spectrum disorder.
Q. Dr Deeley, is it not strange that his current partner for nine years and the mother of his two children has not mentioned in her interviews with Professor Kopelman any such traits as you say are present?
A. Well, again, the observation I would make about that is that when assigning this diagnosis I am looking for the presence of qualitative evidence, of enough qualitative evidence across a long enough period of his life to justify the diagnosis, and I believe that within the collateral interviews conducted that there was sufficient evidence of qualitatively

characteristic features to justify the diagnosis. And so that is the basis on which the diagnosis was made.

Q. Now let us look at 1c, which a lot of us understand, really, is, "A lack of socio-emotional reciprocity as shown by an impaired or deviant response to others' emotions". I mean, this really is a lack of empathy in lay terms, is it not?

A. Yes, that is right, and also a lack of reading social situations to behave appropriately.

Q. So lack of empathy. Let us just run through what the other people said about him. His father said he was, "Good company, good to discuss with, good sense of humour, attracted to people, wanted to be admired and feted". His partner - that is page 21 of Dr Kopelman. Page 22 of Kopelman, that is Ms Stella Moris, "He could turn the charm on. He could entertain people. Not as social. He can do banter". His mother said, the second interview with Dr Kopelman, "He's got a wonderful sense of humour. He's fun. He's witty. He's adventurous and mischievous". And then she said this, "He is an extraordinarily selfless father". Now that last comment there, for instance, "an extraordinary selfless father", that alone is very inconsistent with someone who is on the autistic spectrum, is it not?

A. No, because a person on the autistic spectrum can be dutiful, but it does not necessarily mean that they have an astute or nuanced intuitive moment by moment understanding of the thoughts, feelings, perspectives of those around them.

Q. Well, I think we might hear some contrary evidence on that. Right. In any event, why is it not in your report if you are being objective and impartial that you would set out some of these comments like "extraordinary selfless father" and explain them, why is it not in your report?

A. Well, because in preparing a report of this kind, I have been through a process whereby I have had to weigh evidence. I have included three lines of supplementary assessments, an ADOS assessment, two ADI-R interviews, which I have to say by the - in the normal way that an assessment for an autistic spectrum disorder is conducted it will be considered a comprehensive basis in order to reach a diagnosis.

Q. Well, we will come to that elsewhere in a moment, but his mother also said, "He has got a concern for children, the vulnerable and animals", is that inconsistent - is a person who has got a concern for children, the vulnerable and animals consistent or inconsistent with criteria 1c?

A. Consistent because, again, it goes to the point that a person on the autistic spectrum can be - can be dutiful or principled or subscribe to ideals of behaviour and also be moved by the thought of, if you like, suffering in general of other people or animals. But I think the key

point is what the evidence is pertaining to a person's ability over - over informal interactions over shorter timescales to actually recognise and respond to the thoughts, feelings and emotions of other people and I think there is ample evidence that Mr Assange has struggled in those areas in a qualitatively unusual way which supports a diagnosis of an autistic spectrum disorder. Actually, particularly, this notion of lack of modulation of behaviour according to social context and the very numerous striking examples provided in the report of Dr Dreyfus, which illustrates qualitatively unusual behaviour, I mean to the point, for example, that she said that 60 per cent of the time they would go out together that - or he would get out in company, people would need to tell him, "No, you can't do that". So it is picking up a difficulty in modulation of behaviour according to social context.

Q. 2c, "Stereotyped and repetitive use of language", you have said, "Idiosyncratic use of words or phrases". Now he has written books, published articles, given speeches, hosted a chat show; no other of the four experienced psychiatrists have said that he has any of that trait, what evidence have you got for that?

A. So that - that is not - so it is possible to both have a diagnosis of Asperger's syndrome and to demonstrate expertise and to be authoritative when - and knowledgeable when talking about certain topics, but at the same time to have idiosyncrasies of verbal communication. So Dr Dreyfus, for example, referred to his - what she characterised as an Edwardian style of speaking, an excessive formality, unusual verbal constructions and complex phraseology is noted in the report, the ADOS report, of Emma Woodhouse. And, actually, I believe his mother also in her interview comments on oddities of phraseology that he exhibited in the developmental period.

Q. So a few odd words but you do not mention the fact that he has written books, published articles, given speeches. All that must go contrary to it. Why do you not put the other side of the coin at all, why do you always simply try to defend the position, Dr Deeley?

A. Well, because it is a summary judgment. It is - so in order to - I have - I have marked the fact that I consider the features to be mild rather than marked in these respects and there are lines of evidence I can point to across different sources of evidence to support the conclusion and, actually, also, the evidence that you are citing does not contradict these observations.

Q. But, I mean, Dr Deeley, we can all have these traits. I mean for instance, you do not look at me when you are talking to me about these questions. You look at the ceiling. Is that a trait, no eye contact, is that an autistic trait?

A. I do not think that I would score very highly on an ADOS assessment. The question

has not been raised hitherto.
Q. Right, I was just ---
A. But I am being cross-examined in court and I am also attending to the body language of people in the court. I am attending to the judge. I am attending to your opposite number. I am attending to other people in the room, trying to ---
Q. All right.
A. --- take in all relevant information.
Q. Well, let us look at 2d. 2d, lack - you tick this as his - as he has got this present, "A lack of varied spontaneous make-believe or, when young, social initiative play".
A. Imitative.
Q. Imitative play. Where is the evidence of that?
A. From the ADI-R report interview with his mother. So she said that he had a preference for not playing imitation games. He had an interest in dismantling toys and objects to find out how they work and, actually, interestingly, Dr Dreyfus comments that he still did that into adulthood. It is a very characteristic type of play behaviour of people on the autistic spectrum.
Q. Well, I do that all the time.
A. In itself, it does not denote the presence for an autistic spectrum condition, but it is ---
Q. I am pleased to hear that.
A. It is a relevant ---
Q. Let us just look at this ---
A. It is a relevant observation.
Q. This evidence, for instance. If we look at 3d, "A preoccupation with part objects of non-functional elements of play materials such as their odour, feel of their surface or noise of the variations", and you say this refers to Mr Assange's mother's description. Right, you have found that trait solely on one reference by his mother, is that right?
A. Yes, I would say, actually, that the --- this is where I think DSM-5 has an advantage over ICD-10 because it also expands the recognition of sensory sensitivities and interests outside the domain of play.
Q. Well ---
A. Or early childhood. So Dr Dreyfus also comments on sensory sensitivities ---
Q. Well, let us ---
A. --- exhibited by Mr Assange.
Q. Let us just read out - you can go to it, it is page 5 of the Emma Woodhouse

assessment report. Now let us just understand, it is dated 6 March - 16 March, do you have it there? Madam --- my Lady, do you have it?

A. Yes.

JUDGE BARAITSER: Dated 17 January, not that one then.

MR LEWIS: You should have one called 16 March.

JUDGE BARAITSER: Yes, I have that one, thank you.

MR LEWIS: 2020. Have you got that?

JUDGE BARAITSER: Yes.

MR LEWIS: Dr.

A. I do, I do.

Q. Well, let us just - because this is the evidence you rely upon. I mean, if we go to page 5 and I just want to read it out. First of all, did you interview this lady?

A. No.

Q. So you have got no first-hand interview, you are just relying on what someone else has interviewed?

A. This is a - this is a standard approach to the diagnosis of autism within expert clinical settings in the UK.

Q. Well, the point is it is not you asking the questions here, is it?

A. No.

Q. So let us just look at ---

A. But Ms Woodhouse is trained in the administration of these instruments and teaches other people how to administer them.

Q. Let us just look at the evidence for this, for this trait, "To Mrs Assange's knowledge, Mr Assange has never engaged in verbal or behavioural rituals or compulsions. Reading difficulties with minor changes to daily routines. Mrs Assange said 'we weren't a very routinized household so it wasn't really a problem'." Now you have not put that in your report, have you, on this - for this - this would go to this trait, am I right, am I right in thinking?

A. No.

Q. All right. Well, we will - it is the next passage then.

A. OK.

Q. If we go down, "Mrs Assange does not recall Mr Assange engaging in unusual sensory-seeking behaviours or displaying unusual idiosyncratic negative responses to specific centrist stimuli during childhood. However, she reported that as a baby he would look

intently at the complex pattern scarves when she draped over the neck covering his crib in hot weather". Now that, on that one observation, you have found that there is - that the trait which you have set out at paragraph 27.3 - at 3d is satisfied, is that right, on that one paragraph?

A. I could also add, actually, that Dr Dreyfus has provided additional information about sensory sensitivities exhibited by Mr Assange in adulthood.

Q. Well, let us just look at this passage for a moment. This is all about a baby in its crib looking at a coloured - a baby in its crib looking at a pattern of the scarves. How old was the baby at that time?

A. It would be a baby in a crib, so most likely below the age of one year.

Q. But you do not know?

A. Well, if it - I think that is a reasonable assumption.

Q. Well, it is just reasonable, all right.

A. Below the age of three years.

Q. And were there toys in the crib at the same time?

A. Well, they are not described.

Q. So he could have been looking at toys?

A. Not on the ba - well, the description is as it is and I have interpreted the description ---

Q. Yes, well ---

A. --- is as it is.

Q. What I am doing is I am testing you because you did not ask the question. Someone else asked it. You do not know, for instance, how long was he gazing, do you?

A. I would offer the observation that the presence or absence of a diagnosis of an autistic spectrum condition in Mr Assange's case does not hinge upon this single example considered in isolation.

Q. But I am dealing with it now. You have ticked it as a symptom, are you going to remove it as a symptom then?

A. No.

Q. Right. So we will examine it a bit further.

A. Because I have said that ---

Q. We will examine it a bit further then.

A. Because I have said that it is ---

Q. Yes.

A. It is mild.

Q. How often did this gazing occur?
A. That is not specified.
Q. I mean, there are millions of questions that you could ask on this to ascertain whether it is properly within this criteria or not, are there not, Dr Deeley?
A. But if the totality of information is considered, there is additional information, as I have said, about Mr Assange demonstrating some sensory sensitivities. In actual fact, it does not - I would have to say that it does not have a critical bearing upon the features, either the presence or absence of a diagnosis of autism, nor, indeed, the respects in which autism is relevant to this case in the present circumstances. But the evidence is there and I think there is sufficient evidence to make a judgment with this comment in conjunction with information by - provided by Dr Dreyfus as - as to the presence of sensory interest and sensitivities.
Q. All right. I am going to leave that now. I am just going to ask one final question about suicide risk. You have talked about suicide risk in your - when you mean - when you say "a high suicide risk", you do not mean that it is more probable than not that he will commit suicide. You mean the psychiatric term in that he has an - there is an elevated risk from the normal population of men his age?
A. I would - no, I think it is more specific than that. I would attach more weight to the risk than that. So I think there are - I think it is a high risk in the sense in which I think it is more likely than not based upon his stated intentions and appraisal of his situation and his mood state that he will attempt to take his life. And I think if I could apply a practical criterion, I think any clinician, any responsible clinician caring for Mr Assange under present circumstances would ensure that risk of suicide was actively managed should a determination be made to extradite him. I think that would be re - I think that any clinician I think would likely do that.
MR LEWIS: Thank you very much. Just one moment, please (Counsel took instructions). Thank you.
JUDGE BARAITSER: Now I appreciate it has been some time, can you give me a ballpark idea of how long your re-examination is likely to be so I can consider a break.
MR FITZGERALD: Yes, if I could just have a break, yes.
JUDGE BARAITSER: You might want to take instructions in any event.
MR FITZGERALD: Yes, yes. 15 minutes, can we have?
JUDGE BARAITSER: All right.
MR FITZGERALD: There will not be a witness this afternoon, so we to have some time ---
JUDGE BARAITSER: What happened to Mr Mullen?

MR FITZGERALD: No, he is not coming. I will explain it, if I may, my Lady, but it may be we can use the time to discuss.
JUDGE BARAITSER: Well, I would ask you strongly to see if you can contact a witness, another witness, to fill up this time. I am very concerned ---
MR FITZGERALD: Yes.
JUDGE BARAITSER: --- by losing a whole afternoon ---
MR FITZGERALD: You know we were hoping, as you know ---
JUDGE BARAITSER: --- because a witness who was intending to come is not here.
MR FITZGERALD: Yes.
JUDGE BARAITSER: And for this afternoon not to be gainfully used.
MR FITZGERALD: Right.
JUDGE BARAITSER: I am very concerned about that, Mr Fitzgerald.
MR FITZGERALD: Yes, well, I think there are things we can do.
JUDGE BARAITSER: Well, that is not the point. I am told there are 14 witnesses for next week which need to be dealt with.
MR FITZGERALD: Yes.
JUDGE BARAITSER: And, if we lose a whole afternoon, that is not efficient use of court time. It does not concern this witness. I am very sorry to have this discussion in your presence. It is 12 noon. I am going to give the defence an opportunity to take instructions from their client. Can you make yourself available for quarter past 12, please. Thank you very much. You are under oath, so please do not discuss the case with anybody.

(Short adjournment)

JUDGE BARAITSER: Thank you very much. Mr Fitzgerald.

Re-examined by MR FITZGERALD

Q. Yes. Dr Deeley, you were asked first of all about the, well, you were asked about the time that you had spent and you said that it was two hours observing the test which was conducted by Emma Woodhouse. How long was it that you interviewed him over the telephone for in July?
A. Six hours.
Q. Six hours. And that was over the course of three separate interviews, ---
A. Yes.
Q. --- is that right?
A. Yes.
Q. So, that is a pretty exhaustive series of interviews?

A. It is, yes.
Q. And when you were conducting that, that was amongst other things to confirm or de-confirm the question of Asperger's syndrome, is that right?
A. Yes. Yes, that is right so on ---
Q. I mean, in other words, you did not actually want to give a view until you had had that interview in July just based on the ---
A. Yes, yes.
Q. And so that is some six hours at least plus the two hours. Now, my learned friend ---
JUDGE BARAITSER: I am being looked at very hard by Mr Lewis, you are leading really probably beyond the pale so I am just going to ask you to be a little careful. Do you recall that I have allowed a lot of leeway in your examination-in-chief for reasons that we ---
MR FITZGERALD: Yes.
JUDGE BARAITSER: --- have already rehearsed but I think to put that kind of answer into the witness' mouth is probably going too far.
MR FITZGERALD: Well, as I understand it, I asked him how long, he said six hours ---
JUDGE BARAITSER: Yes.
MR FITZGERALD: --- and then I simply repeated ---
JUDGE BARAITSER: You did not want to give your view until the interview in July had been completed and he thought about it and said yes.
MR FITZGERALD: Oh I am so sorry. I am so sorry, my Lady, perfectly fair. Yes. OK.
A. I could comment on that if you wish?
Q. Yes, perhaps if you would comment ---
A. Yes.
Q. --- spontaneously?
A. So, just, so, in brief, the diagnosis of autism was based on the ADOS assessment. It was based on the collateral interviews. It was based on reading of the case notes and the other psychiatric reports and it was based on my own observations in the six hour interview.
Q. All right. Now, my learned friend then asked you, I think he conceded 3a if we go to page 21 of your report, the encompassing preoccupation, and said that that was there. So, 3a and 2b he asked you about first of all ---
A. Yes.
Q. --- and in relation to 3a he conceded that that was present. Do you regard it as significant that it is present, 3a?

A. Yes. It is clearly present, it is a characteristic trait, it is clearly exhibited by Mr Assange across his life.
Q. Yes. Then my learned friend asked you a number of questions about 2b and his essential point was if you look at that Frontline Club interview that that constituted a conversation and your reply was that it was a set-piece interview ---
A. Yes.
Q. --- and then I think you said later on that it was a set-piece performance, a very long monologue?
A. Yes.
Q. Just help us about the difference between a conversational exchange and a set-piece performance ---
A. Yes.
Q. --- or a very long monologue?
A. So, for example, in the – when conducting a diagnostic assessment of a person with an autistic spectrum disorder, if you do a standard question and format – question and answer format interview with a psychiatrist, often the actual structure of that which is quite formal, a person on the autistic spectrum who is high-functioning can do relatively well on that, but it is actually when you take a person out of a highly-structured formal assessment that characteristics of autism become more evident in unstructured informal social interaction which requires a reading of social queues and social context to adapt one's behaviour appropriately.
Q. And in the case of conversational give and take ---
A. Yes.
Q. --- what is the difference between that and what you have described as a monologue or a set-piece performance?
A. Well, I think if Mr – so, I gave the example of you know, Temple Grandin giving lecture as well but if Mr Assange is in a social context in which he is being asked about matters on which he is an expert and is allowed to expand at length then he is well able to do that, but I think his difficulties with managing social interactions and behaviours are more evident in more informal settings. They become more evident than qualitatively autistic. There are many good examples of this provided in the report of Dr Dreyfus ---
Q. Yes.

A. --- the ADI-R report qualitatively unusual behaviours which reflect a difficulty in reading social situations and holding in mind or representing the thoughts and feelings and perspectives of others, how they would likely think or feel in relation to his behaviour.

Q. Well, whilst we are there then, if you would like to go to the notes of the Suelette Dreyfus interview. Is there anything that you would particularly like to draw attention to in that? You have mentioned it a number of times in response to my learned friend's questions.

A. Yes, well, so, I mean, she gives numerous examples but you could say for example at the bottom of page 5 that comments about his outrageous behaviour and lack of propriety, it would be quite normal for him to go into a café and move the furniture around, go to another table, take all the condiments or one of the chairs without asking, going behind the bar to change the music, to change the music to something that he likes, taking a painting off the wall to look at it. So, these are just qualitative illustrations of rather kind of one-sided behaviours where behaviour is poorly modulated according to social context. And actually, she also comments on a tendency that this has led to him getting into arguments and conflict on numerous occasions over the years where he has been reproved for this sort of behaviour.

Q. Reproved, I think there is a reference to ---

A. At the bottom of page 7.

Q. Yes. When you said reproved I see at the top of page 6 you have ---

A. Oh well, of course, I mean, the top of page 6 there is – I alluded to this comment 60 per cent of the time when we went out he would be told you cannot do that. So, I think that it is illustrative of the difficulties with modulating behaviour according to social context. But in actual fact, I mean, going through the report, you know, without reproducing the contents of the report in full, I would just say that there are many qualitatively unusual behaviours which are – which fit very well which are typical of the sort of traits or behaviours that people on the autistic spectrum exhibit.

Q. All right. Because my learned friend was asking you there about the conversational ability, can we just look at the bottom of page 2 of the report of what Dr Dreyfus said ---

A. Yes.

Q. --- regarding social verbalisation ---

A. Yes.

Q. --- which I think – that is conversational ability is it?

A. Yes, that is right.

Q. Yes.

A. That is relevant to that topic here.

Q. And do you see there about "felt like a performing pony"?
A. Yes, that is right. So, I think that, I think this is relevant. So, if we go to the bottom of page 2, so let us take this example, she described him chatting in an animated way at a book launch or a cocktail party but explained that it was usually with an intellectual field that he was interested in, not your average person. He could not handle small talk. He could not – above that, it says it is hard for him to find a common ground with people, he could not talk about football or the weather. Small talk was not his greatest strength.

And then above that, again this quality of being able to adjust your behaviour to change with social circumstance and take into account other people's point of view. He would talk over people, interrupt them, would only talk on his topics. Again, she mentions the inability to make small talk, to listen to other people, or ask them about all – all of that was missing. And he would cut people off mid-sentence, it was not arrogant, it is because he had a thought and had to say it.

And she also talks about the fact that, for example, if he wanted to speak to somebody if she happened to be talking to somebody else, he would just interpose himself immediately in the conversation, block the other person, and just start talking to her as though they were not there. So again, this is very characteristic of some of the difficulties that people on the autistic spectrum experience. It is to do with the – a practical difficulty in day to day interactions to have access to the kind of spontaneous sense of what other people are thinking or feeling that we just take for granted for people who are not autistic.

Q. And when is the ---
A. And those abilities are diminished.
Q. Yes. And still on the subject of, as it were, conversational interchange, if you go to the bottom of page 3, the second last paragraph, is that significant?
A. It is, yes. So, this again, hurting people's feelings, making socially inappropriate comments, many times when he would say something really rude and hurtful it would cut to the bone, it was not intentional, you realised he just had no idea.
Q. Yes. Now, just going back to the Frontline Club, can you help us about this? We know when a politician is talking they say, "Well, that is a very interesting point Edward, I would like to say something like that" or ---
A. Yes.
Q. Do you see any evidence of that in that conversation?
A. I do not quite understand your point there on - the question.
Q. Sorry. You said it was a monologue.

A. Yes.
Q. Yes, I mean, he is being asked a question by a ---
A. Yes, so, I say it is a monologue in the sense in which it is an uninterrupted discourse over many minutes when he is talking on a topic about which he is an expert which is very characteristic of his social modus operandi.
Q. Yes.
A. And of course he inhabits social realms in which he is granted a platform to do that and within those circumscribed areas he is good at that because he has an attentive audience and he is an acknowledged expert and he is familiar with those topics.
Q. So, if we can go up to the point about the fact that he is a chat show host or a perform at the Front Line Club, not excluding Asperger's, then my learned friend put to you, well, there are numerous occasions when he is described in the prison records as having good eye contact. I take it that that is something they will generally try and notice whether the person is ---
A. Yes.
Q. But you went on to say, "It is more, I do not think actually good eye contact. If one looks at 1b, what you have highlighted is failure adequately to use facial expression, gesture to regulate the social interaction, that is what you were focussing on, is that right?
A. Yes, that is right, so first of all, so these particular components of non-verbal social communication are important to consider in isolation as it were, but they also, in typical social interaction, they form part of a suite of abilities that we spontaneously employ to manage our interactions with other people and to communicate and on the particular topic of the use of – so, in 1a, I have actually coded failure adequately to use facial expression and gesture to regulate social interactions. I left out eye to eye gaze. I was not relying upon an abnormality of eye to eye gaze, but I would point out actually, that Dr Dreyfus does comment on the fact that his eye contact could have a very staring quality at times when he was talking on a topic that he was interested in that was uncomfortable, but other times, his eye contact could be reduced, and that sort of difficulty in that fine tune modulation of eye contact is very characteristic of people on the autistic spectrum.
Q. And I think she deals with that at page 4, is that right?
A. Yes, let us have a look.
Q. Under eye to eye gaze.
A. Yes, that is right, so in the second paragraph down.
Q. And beyond that, dealing with the, as it were, bodily interactions.

A. He exhibited a very characteristic autistic trait of using her hand as an extension of his own body without integrating this with other communicative behaviours. She could not recall the exact situations but said it happened a couple of times. 'I think it was such weird behaviour, I just wrote it off as one of his anomalies.'

Q. Yes, so that deals with this question of bodily gesture and behaviour if I can put it that way.

A. Yes.

Q. And at page 5 of the same report, three from the bottom, you say, 'I told him I cannot work with you if you cannot learn to say thank you and you are sorry.' Do you see that?

A. Yes, well, her comment there is very interesting, so we had to practice that a lot over several years. I mean, in effect, Dr Dreyfus is a good friend of Mr Assange, was informally doing social skills training with him, so she was telling him how to respond in certain types of situations where he offends people, "So, I tell him, in this situation, you need to say the person, 'I am very sorry I inconvenienced you.'" She said he is 100 times better than he was adding, "It was not arrogance. Initially, I thought it was, but it was not. It was a blindness," and that phrase, 'blindness,' is telling here because, of course, Simon Baron-Cohen, on his book on autism in 1995 called it mind blankness, so it is that blindness to spontaneously understanding all the thoughts, perspective, experiences, mental states of other people. It is, that characteristic is exhibited by Mr Assange.

He is an intelligent person, and so, with deliberation, he can sit down and sort of formally consider what other people might think and feel in certain situations. It does not spontaneously occur to him, or if it does so, in a diminished way and actually, it is also remarked by Dr Dreyfus and others that even when he does try to work out the intention of others, he frequently gets it wrong, that he makes clear misattributions or misinterpretations.

Q. I think there was one example given of that, is that right, in Mrs Assange – yes, a misinterpretation in Mrs Assange's, the interview of her at page 4.

A. Yes.

Q. Can you see at the bottom?

A. Yes, I am just going to that now. Yes, she said, "He cannot read people. It is his biggest disadvantage. He is unable to tell who are the good people. He cannot judge when someone is a friend." I should point out, actually, that Mr Assange himself identifying this is a difficulty he had. He viewed himself as a person who had relied on others to act as a sort of buffer to help him interpret the social world and his relationships with other people, but so, she gives an example, which I think is notable.

He was watching the Australian Attorney General on television who smirked whilst talking about him. Despite her decisions negatively impacting upon his situation, Mr Assange thought the Attorney General liked him, simply because she was smiling, but I would also point out again in Dr Dreyfus' report, she talks about the fact that he was overanalyse the motives of other people and come up with a succession unlikely interpretations of their motives for acting which would then need to be addressed or corrected by her or somebody else.

Q. Yes. My learned friend then, in relation to 1c, to some extent, you have dealt with it already, but the point that the put to you was well, his father says he has got a good sense of humour. His partner says he can be very charming and his mother says a wonderful sense of humour. Is there anything that you can say in response to that as to the lack of socioemotional reciprocity?

A. Yes. I suppose the observation I would offer there is that some people on the autistic spectrum can sometimes think in unusual, often think in unusual ways and therefore, can draw attention to an idea or a feature of a situation that might have escaped the attention of other people and that sometimes lends itself to humour, a surprising originality of perspective in responding to a situation and so, that might be contributing to what they are talking about there, but I also note the comments that he is not very good at what you might call banter or pub banter. He struggles, it is, if you like, an extension of the difficulties with small talk. He struggles with some of the more typical kind of jocular exchanges that people take for granted and use to manage relationships.

Q. And then in relation to language, my learned friend put to you, well, what have you got, as it were, under 2c, stereotyped and repetitive use of language or idiosyncratic use of word or phrases. Is there anything that helps us there in the interviews with, the interview with Dr Suelette Dreyfus?

A. Yes. Well, in page 3 of her report, the second paragraph down, she says, "Doctor Dreyfus reported that Mr Assange's speech sounds almost Edwardian at times," adding that, "Sometimes, it was like he had been reading Jane Austin novels and that is where he got his dialogue. He would pick out words and phrases and use them out of the blue, but they did not always fit. He also had some unusual word usages, anachronistic, such as using the word 'mead' during a conversation when talking about Coca-Cola and there are other examples of him inventing words, mispronouncing words and having to be corrected on that, despite his high intelligence and reading.

So, this is all again, this does not in itself point towards a profound impairment of speech, but these are features of higher level speech function which are often found to be different in people on the autistic spectrum, this kind of rather formal stilted use of speech, the use of neology and the use of anachronisms, the use of specialist terminology where more ordinary language would be appropriate. These are all recognised features of people – it is part of what lends weight to the idea of the child with autism is the little professor. The little professor, the child that intercepts the postman and starts talking about cosmology, so yes, it does. It is characteristic of somebody with an autistic spectrum condition.

Q. That is very helpful. And then, my learned friend did ask you on the question of risk, high risk, do you mean more likely than not and you said you did.

A. Yes.

Q. Can you just help us as to the part played by the autism in making it more likely than not as you have said?

A. Yes. I think the link is that – I mean, I think there are general associations between a diagnosis of autism and increased vulnerability, psychiatric disorder. There is the difficulty that many people on the autistic spectrum have of tolerating, tolerating at aversive emotional states and managing them, but I think also – so, if you like, there is the general evidence about these characteristics of people with autism. There is the elevated risk of suicide in people with autism, elevated risk of common mental disorders, but I think, actually, I would also say that he is very analytic and over-focussed, one might say, or highly focussed thinking style does contribute to a propensity for intense pre-occupation and rumination about the fate which he believes awaits him and I think that does interact with his depression. It is an exacerbating factor for his depression and his mood state. It contributes to his very intense feelings of anxiety and produces essentially an unbearable mood state, an emotional state which he feels unable to tolerate and it is linked to an extremely rigid and firmly held set of ideas about what will happen to him in the United States.

Q. Just one final thing if I can just find the place. Mr Lewis put to you that this was your diagnosis alone. I think you have already referred, have you not, to the fact that Dr Blackwood picked up various traits, but then discounted it.

A. Yes, that is right. He applied a threshold criterion. He recognised, he did – well, some traits are probably present but not enough to carry Mr Assange over the threshold for the overall diagnostic constructive fit. I think that is essentially the approach of Dr Blackwood.

Q. Yes, and Professor Kopelman, of course, picked up certain things and that is why he asked for a reference.
A. Absolutely, yes, that is correct.
Q. And you have seen what he says about the traits that he picked up in his report, is that right?
A. Yes, that is right and it is – I recognise those traits that he describes.
Q. And, in fact, in his report, he picks up specifically what Dr Dreyfus had noted and said these appear to be, is that right, Asperger's?
A. Yes, that is right, Asperger's like traits, but I would also add, actually, that Mr – it is, I think there has been a kind of background familiarity with the idea of an autistic spectrum disorder in Mr Assange's family, so his mother identified herself to Miss Woodhouse as somebody who probably was on the autistic spectrum. Her description of her own mother as a woman not only with depression but who was essentially an intellectual who isolated herself studying Latin in her room for long periods of time again suggests that there is a, that whether or not the actual diagnostic, full diagnostic criteria are met, the traits are suggestive of indicating a family predisposition towards this set of characteristics.
Q. And I think you referred to Baron-Cohen's findings. We have set out in Professor Kopelman's report the Baron-Cohen study saying that Asperger's - people with the Asperger's diagnosis are nine times more likely to have suicidal ideation. Is that ---
A. Yes, that is right.
Q. The other point my learned friend took, the final point, he said, well you should have factored in depression as a reason why he was behaving in this way. Now, I think in answer to that, you said that a very, very large number of the people who you interview are, in fact, people suffering from other forms of mental disorder. You said schizophrenia, depression and such, but also ---
A. Yes, common mental health disorders.
Q. Yes. So, to the suggestion that you would not know the difference between depression and autism, what would you say?
A. Well, a substantial part of my professional life is the differential diagnosis of autistic spectrum conditions and other common mental health conditions, understanding their interplay and managing the presence of common mental health conditions in people on the autistic spectrum. And I might also add actually that in the clinic, for example, the adult autism assessment clinic that I worked in for many years, I am a consultant on the National Autism Unit now, which is a national specialist centre for managing people with autism and

co-existing mental health conditions, but in the adult autism assessment clinic we did a review of cases over, I believe, a six year period which demonstrated that most people who were referred to the clinic did not attract a diagnosis of autism. We did not assign a diagnosis of autism to the majority of people who were referred to us. So the threshold for diagnosis is not artificially inflated by the fact that it is a specialist clinic. We are very sparing in the application of the diagnosis in our clinical practice.

Q. And in this case do you have any doubt about the correctness?

A. No, I do not. I think to my mind it is clear that Mr Assange presents as a person with an autistic spectrum condition. He is an intelligent person. He has learnt to adapt to some of those characteristics. Bear in mind it is a syndromal diagnosis, so in order to cross the threshold to attract the diagnosis you do not have to have every single characteristic of autism, and, in fact, most people who have the diagnosis of an autistic spectrum disorder do not have every single feature listed in DSM-5 or ICD -10. You have to cross enough, have enough of the characteristic symptoms, and I think the evidence cumulatively across the entire assessment that we have conducted supports the conclusion.

Q. One final point. At 27.7, you deal with the question of the number of cases you have been involved in from this context of diagnosing ---

A. Yes. Well, I have not counted them, but it would be many hundreds. Hundreds and hundreds of people who have been under – either I have been involved in the assessment, the diagnostic assessment of whether or not they have an autistic spectrum condition. That is across a variety of services and I have also for many years been an in-patient consultant in specialist in in-patient settings, managing people with autism and complex mental health conditions, including actually some people who are detained under forensic sections, or considered to pose a high risk to themselves or others.

MR FITZGERALD: I have no further questions, unless ---

JUDGE BARAITSER: And I do not either. Thank you very much, Dr Deeley, for coming to give your evidence.

WITNESS: Thank you.

JUDGE BARAITSER: Your involvement in the case is concluded and you are very welcome to go. Thank you very much indeed.

WITNESS: Thank you very much.

(Witness withdrew)

JUDGE BARAITSER: Now, something else arises which is unrelated to the position of Professor Mullen, and that is those who are sitting within the court well and my concerns. I

can see that to my left there is sensible social distancing and clearly in front of me there is sensible social distancing. To my right there is very poor social distancing. There is clearly not two metres between those that attend and I need to address that problem. I appreciate that those in the well, I have taken a list of names just to try and identify who is here, so I know now who is in the court well and by and large they consist of journalists, I am told with a press pass, and lawyers, some directly associated with this case but some who are not directly associated with this case.

What I need to now do is make sure that social distancing is in place to my right and the priority order is that those who are directly associated with this case take priority and thereafter if there is space for others, well so be it, but rearrangements need to take place to accommodate that.

I am going to leave that. I think they are largely from Mr Assange's defence team and I am going to leave that to you to arrange.

MR FITZGERALD: Yes.

JUDGE BARAITSER: But when I come in this afternoon I expect social distancing to be observed.

MR FITZGERALD: That is to say three people in the bench but spaced properly.

JUDGE BARAITSER: Two metres apart is the general guidance from the Government.

MR FITZGERALD: My Lady, yes.

COURT USHER: Just to clarify that, you are expecting then people to be repositioned in the dummy court room next door?

JUDGE BARAITSER: So there is an overspill court in court 9 and, of course, provided social distancing is observed in court 9, those that are currently in this room are very welcome to try,, with social distancing to have a space next door.

MR FITZGERALD: Yes.

JUDGE BARAITSER: Now, Professor Mullen?

MR FITZGERALD: My Lady, this is saving time. We are not calling him.

JUDGE BARAITSER: I see.

MR FITZGERALD: So what I have indicated to my learned friend is there are two matters obviously. One is we have been engaged in the exercise of trying to work out the way forward, and you may wish to hear from us on that, and whether realistically we can complete everything, including speeches next week, and, if not, what we do. It may be that this is an appropriate time to grasp that nettle if my Lady thinks that is appropriate.

JUDGE BARAITSER: It would be an easier task to undertake with the proposed timetable, which I am told is due to come to me hopefully relatively soon.

MR FITZGERALD: Yes.

JUDGE BARAITSER: Do you know the progress of that list?

MR FITZGERALD: Well, I have not been doing it this morning, but I know that, yes, there has been I think very considerable progress. The only problem is that my learned friend Mark Summers is not well today.

JUDGE BARAITSER: I am sorry to hear that, Mr Fitzgerald.

MR FITZGERALD: And so he cannot be here, but I am sure we can make some progress on that and if we were to reconvene at 2 o'clock to just see where we are and address you on that.

JUDGE BARAITSER: Yes. Mr Smith, are you involved in that list and will it be ready by 2 o'clock?

MR SMITH: I am not involved in drawing up the list of witnesses, no, my Lady, because I do not have access to their availability. That is, I think, the problem that the defence team are having.

JUDGE BARAITSER: Ms Iveson, do you have a list by 2 o'clock?

MS IVESON: I think it is unlikely we will have a full list by 2 o'clock, but I think we will have a reasonably full indication of the direction of travel, if that assists.

JUDGE BARAITSER: All right. My intention is to finish this case by Friday next week, so I would like you to bear that in mind in your drawing up of this list.

MR FITZGERALD: My Lady, I think that is really where I would request an opportunity to address you on that at some stage because I think certainly from the bar that there is, if I can put it this way, a consensus that even if we finished all the witnesses, and that is quite a tall ask, we could not, in addition, have closing submissions, and it would not be either fair or appropriate to try, in our respectful submission, to do that next week because we will be calling witnesses right up to the close of play in order to get them in, if we can get them all in, and to then assemble all the references in closing submissions would just be impossible and we would not be assisting you in those circumstances.

JUDGE BARAITSER: I appreciate that.

MR FITZGERALD: I think my learned friend agrees with ---

JUDGE BARAITSER: Mr Fitzgerald, that is why I am particularly concerned that this afternoon is not being used to hear evidence.

MR FITZGERALD: Well ---

JUDGE BARAITSER: If Professor Mullen was not going to be called by the defence, that perhaps is something that should have been known in advance so that the time this afternoon could be properly used.

MR FITZGERALD: Well, my Lady, obviously one takes the decisions as time goes by and what evidence has come out and what is appropriate. MY Lady, there is a possibility of, I think Professor Fazel is here, but I understand that my learned friend would prefer that he be called, as anticipated, tomorrow.

JUDGE BARAITSER: Well, perhaps we can look at that now. Is there any reason why Professor Fazel cannot be called this afternoon?

MR LEWIS: Well, my Lady, it will take us a little by surprise.

JUDGE BARAITSER: Yes.

MR LEWIS: I have not ---

MR FITZGERALD: It will take me by surprise.

JUDGE BARAITSER: Perhaps the defence are more disadvantaged by the surprise than you are. He is your witness and he is ---

MR LEWIS: If they are going to cross-examine. I would really need to speak to Professor Fazel about that before.

JUDGE BARAITSER: You are very welcome to, but, of course, as far as you are concerned, it is simply taking him through his report in a relatively short period and I am going to ask Mr Fitzgerald whether he is in a position to cross-examine this afternoon, because if he is here and available and it is possible for him to give his evidence, I would like him to do so.

MR LEWIS: Well, if Mr Fitzgerald is going to cross-examine this afternoon, what would not be satisfactory or any benefit would be if we just did him in-chief, take 10 minutes and then that would not make any difference.

JUDGE BARAITSER: Oh no. I am assuming that it was raised by Mr Fitzgerald because he is in a position to ---

MR LEWIS: And, of course, Dr Blackwood is not here. Previously we have had them, both experts dealing with it. Could I take some brief instructions on that?

MR FITZGERALD: Yes. Madam ---

JUDGE BARAITSER: Yes, of course. I am going to come back at 2 o'clock.

MR LEWIS: But first of all could we ascertain that Mr Fitzgerald is in a position to cross-examined?

JUDGE BARAITSER: Yes. Good idea. Are you, Mr Fitzgerald?

MR FITZGERALD: My Lady, I think I had better take instructions. I have some points obviously, but I had anticipated that Dr Blackwood would be first and so actually I accept what my learned friend says that there is not much point in just hearing him in-chief.

JUDGE BARAITSER: No, I would agree with that, but I would like to hear a witness this afternoon for all of the reasons already rehearsed.

MR FITZGERALD: Yes.

JUDGE BARAITSER: Time is very much in issue in this case now, and I would like if there is a witness available who can be dealt with, to deal with him.

MR FITZGERALD: We have been urgently considering what we could do and that was a rather desperate suggestion, but perhaps I should take instructions.

JUDGE BARAITSER: Please do that and at 2 o'clock perhaps we can have the answer.

The other issue which is raising its head again and again now is access to the psychiatric reports. It is not only Professor Kopelman, it is now obviously Dr Deeley who has given his evidence and at some point that is going to have to be dealt with. If time is going to be required to hear submissions, I would ask you to consider when that is going to take place. If it can be done today, so much the better.

I will leave those two thoughts with you for 2 o'clock.

MR LEWIS: Madam, I have just been informed by those instructing me that Dr Blackwood, who was anticipated to come tomorrow afternoon, is organising in a particular way. He will not be here before 12 in any event so that if we did deal with Dr Fazel this afternoon, we would still have a gap until 12.

JUDGE BARAITSER: You would, but surely another of this long list of witnesses can be heard at 10 o'clock in the morning?

MR LEWIS: Oh, yes. I do not know. I am just telling my Lady what our position is because I only have the responsibility, I am pleased to say at this moment, for my two witnesses.

JUDGE BARAITSER: Yes.

MR FITZGERALD: Well, my Lady, I know my instructing solicitors have been urgently considering whether there is anybody we can call, but, in any event, unfortunately the witness who we had hoped, Sondra Crosby, it is the one day she has a clinic. She could have come and given evidence very early tomorrow morning her time, as it were, but she has a clinic at present.

JUDGE BARAITSER: Is she available tomorrow morning?

MR FITZGERALD: I think she could give evidence first thing in the morning, but ---

JUDGE BARAITSER: Well, that sounds ideal then if Dr Sondra Crosby gives evidence at 10 o'clock and Dr Blackwood at 12 noon, or as soon as Dr Crosby has finished, well, surely that is a way forward.

MR FITZGERALD: Oh yes, but then you mean Professor Fazel ---

JUDGE BARAITSER: No, this afternoon.

MR FITZGERALD: Well, can I actually see whether that is ---

JUDGE BARAITSER: Yes, of course, but that is ---

MR FITZGERALD: --- feasible. Yes.

JUDGE BARAITSER: Yes, of course. I will let you take your instructions, but that is what I have in mind. Is there anything else before I rise?

MR FITZGERALD: No.

JUDGE BARAITSER: 2 o'clock then please. Thank you.

(Luncheon adjournment)

JUDGE BARAITSER: Thank you. I think that is very much better. Yes.

COURT USHER: We are just waiting for Mr Assange, madam, he is being brought up.

JUDGE BARAITSER: Ah. All right. Have a seat, Mr Assange.

MR FITZGERALD: Can I just have one moment?

JUDGE BARAITSER: Yes, of course.

(Counsel conferred)

MR FITZGERALD: Yes, my Lady. My Lady, if the court wishes us to make some progress then if my learned friend wishes to call Mr Fazel now, Professor Fazel now, I will ask him some questions.

JUDGE BARAITSER: Thank you very much indeed.

MR FITZGERALD: Yes.

JUDGE BARAITSER: Has everyone had enough time to accommodate this? Do you need any more time, Mr Lewis?

MR LEWIS: No, no, it is fine. It is fine, my Lady. I will call Professor Fazel.

JUDGE BARAITSER: Thank you.

PROFESSOR SEENA FAZEL, Affirmed

COURT USHER: Can we have some water, Simon?

JUDGE BARAITSER: As I have said to all the witnesses, you are very welcome to sit down. There are two seats available. I appreciate it puts you lower down than you might wish to be. I will leave the choice to you.

A. Thank you.

COURT USHER: And I will just get you a clean mug ---
A. Thank you very much.
COURT USHER: --- in about two minutes.
A. Thank you. I can drink.
COURT USHER: You OK with that?
A. Yes. It is fine.
JUDGE BARAITSER: Thank you.

Examined-in-chief by MR LEWIS

Q. Professor, you have produced a report dated 30 July for this court. Is that report true and correct to the best of your knowledge and belief?
A. It is, yes.
Q. Thank you. And you adopt it?
A. Yes, I do.
Q. Just one or two preliminary questions. Your qualifications. Are you a forensic psychiatrist?
A. Yes, I am.
Q. And just tell us what that really means.
A. So, that means I have specialist training in the assessment and management of mental disorders in prisoners, particular prisoners with mental health problems and some expertise in dealing with people who go before the courts including their diversion to what would have called secure hospitals or forensic hospitals.
Q. Thank you. So, for instance, how often do you visit prisons?
A. So, I visit prisons currently about once a fortnight. I have before that been visiting prisons weekly for about 10 years and earlier on in my consultant, as a consultant, I was visiting prisons more often than that as well.
Q. And just tell us about previous instructions. You have given expert evidence in instructions for whom?
A. So, I have been instructed by the government legal department, a UN tribunal in the Khmer Rouge trial, Liberty defence solicitors, prison - prisoner ombudsman on six occasions, coroners in England and in Northern Ireland.
Q. And I understand you have a specialisation in prison suicide?
A. That is right. It has been a research interest of mine since around 2005. I have published extensively on this topic and done a number of empirical studies looking at suicide in prisoners.

Q. Well, and sparing your blushes so it comes from me, you are recognised as one of the world experts on prison suicides?
A. Yes.
Q. If we just look at your research and publications, and it is the last page of the report, research and publications, you published papers on prison suicide in The Journal of Forensic and Legal Medicine 2009?
A. Yes.
Q. In The Lancet on suicide in male and women prisoners.
A. That is right. In male prisoners in The Lancet and women prisoners in the British Journal of Psychiatry.
Q. A systematic review of risk factors for self-harm in The Lancet, 2020?
A. That is psychiatry, that is right, just came out earlier this year.
Q. You have dealt with suicide in custody in the Journal of Clinical Psychiatry 2008?
A. That is right.
Q. You dealt with international comparison of suicide rates in prison?
A. That is right. I have done a number of those.
Q. And in fact, you have published research on associations with suicide and psychiatric patients in the general population?
A. That is right.
Q. You published recently in the pre-eminent journal, The New England Journal of Medicine?
A. That is right. That is a review article on suicide in general.
Q. You have in fact written a training course for the Royal College of Psychiatrists on suicide in prisoners?
A. That is right, yes.
Q. And I think you are now a member of the Independent Advisory Panel on Death in Custody since 2019 appointed by the Home Office and the Ministry of Justice?
A. That is right and Department of Health.
Q. So, can I just very briefly take you into your report? You have found that Mr Assange is moderately depressed, is that right?
A. That is right, yes.
Q. But with no psychotic symptoms?

A. Well, I did not think his depression would be called depression with psychotic features. So, I would not classify it as a severe depression with psychotic features. That was at the time of my assessments which were in March and June.

Q. And just very briefly, 5.7 of your report, we are talking about the sort of risk ---

A. Yes.

Q. --- as this seems to be different from what Dr Deeley put forward, at 5.7 can you just tell us what you mean by high risk?

A. Yes. I think it is important to clarify this. So, usually when psychiatrists talk about high risk they mean it is more than the general population of similar age and gender. So, it means it is elevated. And then it is important also to contextualise what that means because if the comparison group has a very, very low risk then high risk has to be seen in that light. So, for instance, for prisoners in England and Wales, about one in a thousand prisoners will die from suicide in any one year. So, when you talk about high risk or an elevated risk of suicide in prisoners that has to be borne in mind. It is still, we are talking about you know, an increase maybe from one, to two, three, or four usually ---

Q. A thousand?

A. --- for out of a thousand, yes, so it is less than one per cent risk in any given year. And I think that has not been clarified previously and I think that is important to understand the context of suicide risk. The other thing about suicide risk, and I think this is also very important to state upfront, is that it, something that changes, so it is not something you can say today I can anticipate someone's suicide risk in six months, you have to understand that suicide risk is a dynamic.

They use the word "dynamic" which just means that it changes in relation to circumstances and that has to be also borne in mind that you can talk about someone's risk when you see them but it is very, very difficult to anticipate with any certainty what someone's suicide risk will be in a month, in two months, particular if their situation has changed. And normal good practice is that you would then do a new assessment at that time to establish the suicide risk at that time.

Q. And at 5.8, you talk about the fact that risk factors are not strongly predictive, even putting these risk factors together does not necessarily translate into a high probability of suicide because they are quite prevalent in male prisoners. Suicide remains a very rare outcome in prisoners, is that right?

A. That is right, yes. And it is even rarer in US prisons than it is in prisons in England and Wales. But generally speaking, it is a rare outcome and that is an important part of the context here.

Q. And at 5.9, you come to the view that Mr Assange's mental condition is not sufficiently severe that it removes his capacity to resist suicide?

A. That is right.

Q. What exactly do you mean by that?

A. Well, so this is around whether he is, he is able to manage his suicide risk. So, here, when I am thinking about suicide risk, I am thinking about what people can do or what even health services can do to reduce the risk and my point here is that Mr Assange is able to manage his risk to some extent. He phones the Samaritans, he has been adherent to his medication as far as I know, he has taken on board psychological treatment with Dr Corson and attended it regularly and seems to have engaged quite well. So, it shows a capacity to manage, self-manage his risk and that to me is not consistent with the idea, the notion that his mental condition is so severe that he cannot resist suicide.

Q. Thank you. And then just moving on to prison conditions very briefly at 6.6 ---

A. Yes.

Q. --- because I think you have done some work in American prisons?

A. Well, I visited them – I have not, I have not done any, you know, research there but I visited a couple of American prisons, yes.

Q. And whatever it is worth, suicide rates in prisons in England and Wales are substantially higher than the US prisons?

A. Yes, that is right. I mean, they are approximately four or five times higher in England and Wales than overall in US prisons. That is right.

Q. And then finally, the last paragraph of your report, 8.10, is it your opinion there are no obvious differences in what treatments could be potentially made available for suicide prisoners in England and Wales compared with the United States?

A. That is my view with the caveat that I am not an expert on US prisons but what I have read suggest that they do offer standard assessment and treatment of mental health problems and also some psychological treatments which we generally talk about as cognitive behaviour therapy type treatments and they are available in US prisons.

Q. And medications ---

A. And medications, absolutely, yes.

Q. --- will be the same?

A. Yes, absolutely.
Q. Yes, thank you very much. There might be some other questions.
JUDGE BARAITSER: Thank you.

Cross-examined by MR FITZGERALD

Q. Professor Fazel ---
A. Fazel.
Q. Fazel ---
A. Yes.
Q. --- I am so sorry, Professor Fazel, can you just help us with this because I want to first of all explore the things that there is a common agreement on ---
A. Yes.
Q. --- which I think there are a number of things.
A. That is right.
Q. So, first of all, you agree that Julian Assange suffers from depression?
A. That is right, yes.
Q. And I think you would agree that that depression has a history?
A. Yes, I would.
Q. And that there have been earlier episodes which have been documented in his twenties?
A. Well, I have seen reference to earlier episodes in his twenties. I wrote in my report that I had not seen a psychiatrist diagnose that ---
Q. No.
A. --- but I had seen references ---
Q. Yes.
A. --- to previous episodes.
Q. So, you do not disagree the point that this is a depressive condition which has had a number of earlier episodes?
A. I do not disagree with that.
Q. And of course, you did not yourself see him at the time that he was most disturbed in November/December 2019 ---
A. That is right.
Q. --- and I think you very fairly said at paragraph 5, if I can just find it, 5, yes, 5.3 of your report, just over the page from where the thing is, it is possible Mr Assange did not want to speak to healthcare, you are dealing with that there, but I think you said quite clearly that it

may be – sorry 5.5, "I note that Professor Kopelman came to the view in his report that he had a severe depressive episode with psychotic features. He based this view on mood congruent psychotic symptoms. Professor Mullen did not come to the view about psychotic.". And then you say, "Both Professors Kopelman and Mullen characterise Mr Assange's depression as severe. One possible reason that my view on severity differs is that my two clinical assessments are more recent and Mr Assange has improved since December 2019."

A. Yes.

Q. So, you are not saying they have got it wrong that it was severe in December. You are saying, as I think you have said to my learned friend, this is a condition which can get better and can get worse.

A. That is right.

Q. And the two factors that Professor Kopelman suggested that may have influenced it was (1) he was on medication over a period of time, including, I am going to get it wrong, quetiapine, is that right?

A. That is right, quetiapine, yes.

Q. Yes, and that that may have improved things.

A. Yes.

Q. That is a reasonable position, is it?

A. I would agree with that, yes.

Q. And the second point is that he had moved off the healthcare and, in fact, he did not like being in, he found it difficult being in segregation.

A. That is right.

Q. Again, a fair point.

A. A fair point.

Q. Yes, so therefore, the situation is you are not disputing that they were right, that it was severe in November/December of 2019 for the reasons that I think you and Professor Kopelman share. He may have got better in February/March.

A. That is right, so he could well have been severe in November/December.

Q. So, we are dealing with an episodic and fluctuating condition which can be severe.

A. Yes.

Q. And can be moderate.

A. And can be mild, yes.

Q. And, of course, that is going to depend a lot on the kind of stresses he is under.

A. Exactly.
Q. And if he is able to communicate with others and associate with others, that will obviously make a difference.
A. Yes, I agree.
Q. I know your published literature shows that the worst thing for mental disorder is isolation.
A. I did not say the worst.
Q. Well, it is not a good thing anyway, it does not help.
A. It does not help some people, yes.
Q. And the second thing, so, association, obviously, if he has got access to Samaritan phones and all that, that would help.
A. That would help.
Q. And also, if he is on the right medication, that will help.
A. That is important, I agree.
Q. And I think, again, the fact that, therefore, he has an underlying depressive disorder which can be severe and can be moderate, you agree.
A. Yes.
Q. And you agree, I think, also that he had been on medication, which is appropriate for depression, that is to say mirtazapine, is that right?
A. That is right.
Q. 30 milligrams. Citalopram.
A. Citalopram, yes.
Q. Citalopram and quetiapine which is, it is a neuroleptic, is that right?
A. Well, it is an add-on treatment for depression at the dose that it is being used, so it can be used either as an antidepressant type compound or a mood stabiliser, yes.
Q. Yes. And, of course, you would accept that another factor, another one of the variables would be whether he is having association with his family and support from his family.
A. Yes.
Q. That would be important.
A. Yes.
Q. And so, those are the broad points that there has been the history, the condition there is, it is there underlying.
A. Yes.

Q. The depressive disorder.
A. Yes.
Q. And you have also said at 5.6 that his suicide risk is currently high.
A. Yes, that is right. By currently, I meant in the 29 June, yes.
Q. Yes. No, I appreciate that. And I think you have also identified that there are a number of risk factors. Is that right?
A. That is right, yes.
Q. And those would include the fact that he has reported making suicidal plans.
A. That is right.
Q. That he has stated that his suicidal thoughts reduced after speaking to his partner and the Samaritans, is that right?
A. Yes, so that in itself is not a risk factor, but that shows that the risk is modifiable.
Q. Yes, provided he can access a Samaritans' phone and speak to his family.
A. I think the point is not so much the Samaritans but of some form of counselling.
Q. Yes, and then Mr Assange – yes, and then you deal with a number of other risk factors which I think you set out.
A. Yes.
Q. And you said that his risk will depend on other circumstances.
A. That is right.
Q. Can we just explore some of those factors because at 5.6, you say one of them would be if he was convicted and sentenced, is that right?
A. Yes. But I wrote to life in prison.
Q. Yes.
A. Yes, so I think that was the factor that identified.
Q. Right, but if he was convicted and sentenced to a very long sentence, would you agree that that would also be a factor?
A. That would be a risk factor, yes.
Q. And just help us about this. Would you agree that the conditions in which he is confined, if he is convicted and sentenced, could make a big difference in America to the question of the risk of suicide?
A. I think it can make a difference, but I think it is important to know what those conditions are.
Q. And just help us about this, just on the general. In the – can I just hand up a bundle to you? It may have the materials. My Lady, that is the bundle that we all have.

A. I have one here with ---
Q. Oh you have got it, have you? The defence bundle.
A. Yes, I think I do.
Q. Okay, fine. Well, if you have got it then ---
A. Yes, I have got it thank you.
Q. Well, just, if you look at the, first of all, the ---
MR LEWIS: I am really sorry, ours seem to have disappeared. Can I just take that one back? I do not think they are marked.
JUDGE BARAITSER: When you say defence bundle, can you just identify exactly which bundle you are referring to. I have a large number of defence bundles.
MR FITZGERALD: Okay, it is the index to defence psychiatric witness bundle, the first one is Professor Kopelman and then, it goes down to the ICD-10, my Lady.
JUDGE BARAITSER: I think it might be this.
MR FITZGERALD: That is the one. Yes, that is it. Thank you, my Lady. So, Professor Fazel, if you could assist us then, if you look at tab 8, there is the Lancet article that you, yourself, authored.
A. Yes.
Q. And I just want you to help us about this. This is in 2011, but you have said there at page 166 at the bottom, if you can see it. It is page 957 of your article, "Solitary confinement seems to exacerbate symptoms of mental illness and recommendations have been made to avoid its use in those with pre-existing psychiatric disorders."
A. That is right.
Q. And I think, so, just help us ---
JUDGE BARAITSER: Can you just identify where on page 166 that is?
MR FITZGERALD: It is at the top, my Lady, at the top, about ten lines from the top, after the percentages.
JUDGE BARAITSER: Okay, thank you.
MR FITZGERALD: Do you see, 'solitary confinement.'
JUDGE BARAITSER: I do.
MR FITZGERALD: I am sure, since you wrote it, you are well familiar with that, professor?
A. Nine years ago. Nine years ago.
Q. Years ago, but just looking at that, solitary confinement seems to exacerbate symptoms of mental illness, and then I think you cite an American study about it would be best to avoid.

A. Yes.
Q. If we take as a definition of solitary confinement someone who is in their cell for 22 hours a day, and is deprived of association with other prisoners, which is the Mandela rules definition, would you accept that that condition would exacerbate the underlying disorder?
A. Sir, I think if we took about depression, if I could just talk very generally, I think that one of the ways that depression is treated and one of the ways it is managed is by people being active. Even a little bit of activity helps, so that is why people are encouraged to do exercise. That is why people are encouraged to what is called associate with other prisoners, so I think if that is restricted, then that does mean that the depression, there are less opportunities to treat the depression, so I think in relation to depression, that is how I would understand the exacerbation in that it removes opportunities to treat parts of the depressive illness.
Q. And would you accept it might also increase a sense of hopelessness and a sense of loneliness?
A. It might do, absolutely, yes.
Q. And so, someone with a pre-existing depressive condition, exposed to solitary confinement, just first of all, that runs of a serious risk that it is going to lead to a deterioration in his condition.
A. I think it does increase the risk. I do not necessarily use the word 'serious' because every individual will respond differently and you know, in some cases, people may not have a poor reaction to being in solitary confinement.
Q. Alright. Well, knowing what we know about Mr Assange and about what you have fairly accepted, his condition was worse when he was in isolation and he got better after that, would you accept that for him to be in isolation would exacerbate his condition.
A. So, again, I would want to know what the conditions are, so what is the access to family, what is the access to other forms of support, so if all that is removed, then I would accept that, but I do not know that. I cannot anticipate.
Q. I appreciate that, but let us just posit the conditions of special administrative measures. Are you familiar with those?
A. I am familiar with the term. My understanding is that it is a bit heterogeneous so it varies, so I would ---
Q. Let us just assume – sorry, I did not mean to carry on, but let us just assume that he is subject to special administrative measures.
A. Yes.

Q. And just to give you a foundation for that, Mr Kromberg says that he may well be subject to them. The defence experts say he certainly will be subject to them, okay? And they say that in those conditions, Mr Assange would not be able to associate with other prisoners. He would have very limited contact with the outside world and any phone calls that he made would be monitored.

JUDGE BARAITSER: To be perfectly fair, that is one interpretation of the conditions in SAMS. There are other aspects to it.

MR FITZGERALD: Yes, well can I ---

JUDGE BARAITSER: You can do it on that basis.

MR FITZGERALD: Yes, oh yes, on the basis ---

JUDGE BARAITSER: I do not think we can assume that is the only correct basis.

MR FITZGERALD: Yes. Well, on the basis that that is correct, would you expect exposure to those conditions, non-association with other prisoners, very limited contact with the outside world at all, would exacerbate his condition?

A. Yes.

Q. Thank you. And, indeed, might lead to him going back to the severe state of depression that he was in when seen by Professor Kopelman and Professor Mullen in November 2019.

A. That is probably going a little bit too far forward.

Q. Well, would you accept that there is that risk there?

A. There is that risk there, but I cannot a direct cause or link because there are so many other factors that have to be considered. For instance, his understanding of the prospects going forward is key. His underlying depression, to what extent it is being treated is important so it is quite difficult to be certain about whether that regime would mean that he becomes severely depressed. I would agree with you on the general principle that it would lead to a worsening of symptoms, but I cannot tell you how severe that worsening would go to.

Q. I am just asking you to help us as to whether there is that risk and you accept that there is.

A. Well, I can say that there is a risk of worsening symptoms.

Q. Thank you. Now, the second point I wish to put to you is, I think if you just looked at tab 9, do you see there that the Terry Kupers article, Community Mental Health Model and Directions.

A. Yes.

Q. And do you see at page 191, "Suicide is a very big problem in jails and prisons." That is dealing with the US.
A. Yes.
Q. "The rate of suicide behind bars is much greater than in the community". That is, again, in the US.
A. Yes, it is about ---
Q. It is ---
A. It is about double - oh, he has put that in, yes.
Q. Yes.
A. Yes,.
Q. Twice as prevalent.
A. Yes.
Q. "Long-term consignment to segregation is a major factor in the high suicide risk among other factors". And then he says, "Recent research confirms that, of all successful suicides that occur in a correctional system, approximately 50 per cent involve the 3 to 8 per cent of prisoners who are in some form of isolated confinement at any given time". So, just pausing there for a moment, the 3 to 8 per cent of prisoners who are, of all the prison population who are in isolation make up 50 per cent of those who commit suicide?
A. Now so there are two things to say in relation to that. First is the reference, the first reference to the letter is from an article in 2008.
Q. Yes.
A. So that may well be quite dated, so I would hesitate to just take that on board ---
Q. Right.
A. --- without checking what the latest numbers is. Second is that the references are to individual states, California and New Jersey, and we are here talking about, I think your question is about a national issue. But the references are to individual states and they are states with large prison populations, but obviously they are two out of - only two out of the whole - the whole country. And I - and the third thing is that, like I said, it needs to be seen in light of the absolute numbers of suicides so that, even if a large proportion of suicide deaths are based in - are from individuals who have been in segregation, that still needs to be seen in light of what the rate of suicide is. So what is actually the number per thousand prisoners I would like to know.
Q. Well, you do not know yourself?
A. I do not know myself, no.

Q. But would you accept the general proposition that there is a high rate of suicide amongst those in segregation?
A. Well, according to this article that is the case. I do not know what segregation exactly refers to because, again, that might refer to many different things, so I am not entirely sure without checking.
Q. I have tried to give you a working definition of 22 hours at least in your cell and when you are out of your cell not associating which ---
A. But I do not know if that is what they refer to in this article.
Q. Right. But would you accept that that leads to a higher rate of suicide?
A. I do not think in itself it does and, of course, we have had quite major restrictions in prisons in England and Wales since March and there is no clear evidence, as far as I know, that that has led to a large increase in suicide rates though.
Q. Well, prisoners are allowed telephones in their cells?
A. That is right, but you are talking about 22 hours in cell you said.
Q. Yes.
A. And so I am saying that in itself is not going to be determinative here.
Q. Well, let us take this example, which is a very concrete example of what we fear is going to happen in this case. In his cell, at least 22 hours a day, any association - and any outside cell not with association and little or no phone call contact with the outside world and that there is monitored, what do you say then?
A. I would ---
Q. Is that going to increase the risk of suicide?
A. Well, I think it needs to be seen in relation to some other factors. So the one - the key one I said previously was his perception of the longer term outlook ---
Q. Yes.
A. --- is key. So I think that - I think it - I mean, I think it raises an important underlying point here which is that we are talking about a very multifactorial issue, suicide.
Q. Yes.
A. It cannot be reduced to one or two risk factors.
Q. All right.
A. I mean, you are going to be talking about 10 at least and ---
Q. Well, but let us take them then, let us take them.
A. Yes.
MR FITZGERALD: He is alone; he has limited contact with the outside world; he has bleak

prospects, including either a very lengthy sentence or indefinite incarceration?
JUDGE BARAITSER: This is a hypothetical situation now.
MR FITZGERALD: Yes, yes.
JUDGE BARAITSER: Yes.
MR FITZGERALD: I am putting it to you, in those circumstances, would you accept that there is a far heightened risk of suicide?
A. There is a heightened risk of suicide, yes.
Q. OK.
A. And I think the key thing there was the bleak prospects because I think hopelessness is a - is an important risk factor.
Q. Yes.
A. It is not actually highlighted in some of the articles ---
Q. Yes.
A. --- that we have been talking about, but it is an important risk factor.
Q. Yes, I think - I think you spoke to Mr Assange and did you - that was one of the factors that he was concerned about?
A. Yes.
Q. His bleak prospects of either a - well, of life-long incarceration in the US, that is ---
A. That is right, and that is partly why I came to the view that I did.
Q. Yes. So that is why he has a high risk now and, if that comes to be the case, the risk is even higher, is that fair?
A. Well, I do not know about even higher but it would be high.
MR FITZGERALD: Yes. And would you accept that to expose someone to that is ---
JUDGE BARAITSER: Sorry, can I be clear, are we talking just about bleak prospects or are we talking about everything that you have mentioned in terms of this scenario?
MR FITZGERALD: Well, I think what ---
JUDGE BARAITSER: 22 hours in the cell, no association, bleak prospects, is it all of it you are referring to?
MR FITZGERALD: I think the Professor was saying that the bleak prospects would be particularly ---
JUDGE BARAITSER: Yes.
MR FITZGERALD: --- heightening the risk. But you would accept that if you have detention in the cell, if you have limited communication with the outside world and bleak prospects, there is going to be a heightened risk of suicide?

A. That is right, it would be a heightened risk. I - nevertheless, I mean, as I said, it is multifactorial, it is potentially modifiable, so I would want to look at what treatments are available, whether they are things that can be done to alleviate the symptoms that he is experiencing at the time. So I am just - I am quite cautious about just focusing on two or three risk factors in isolation.

Q. Well, except that just supposing he is in a situation which again is a very real situation predicted in this case, where he, because he is a security - perceived as a security risk, he does not have access to normal therapeutic programmes and you have seen the evidence of Warden Baird, have you?

A. I have very briefly seen it because I only received it yesterday, yes.

Q. Yes, but you have seen what she says: well, it is all very well to talk about all these programmes but if you are a security - perceived as a security risk you just do not have access to them, that must be a highly relevant factor?

A. Well, I do not - I cannot - I cannot - I would want to - I would want to see the full range of evidence on that issue not just one - one report. So I do not want to comment on that particular ---

Q. All right. So - but you - but were that to be the case, would you say that that would be highly relevant, that lack of access to any therapy?

A. It would be relevant, yes.

Q. All right. And I think that you, again in your 2020 article you yourself have said that environmental factors specific to prison, including solitary confinement, were closely associated with self-harm, is that right?

A. That is right, yes.

Q. So you said.

A. That is self-harm, which is of course different.

Q. Yes, yes.

A. And we sometimes conflate the two.

Q. No, I am not seeking to do that.

A. Yes.

Q. But, obviously, it is the first step towards ---

A. It is in some people, yes.

Q. Yes. I think you have also said, and this perhaps is important, you recognise that extradition may - sorry, that the risk of deterioration and, indeed, the risk of suicide may depend on a number of variables such as the sentence received and the conditions of atten - of

detention?
A. That is right, yes.
Q. And you have made assumptions that the American system is as capable of preventing a risk of suicide and providing humane treatment as the UK, is that right, you have assumed that?
A. I have assumed it based on my reading of the information that I have cited in my report.
Q. Yes.
A. But with the caveat that I am not an expert on US prisons.
Q. Yes. And you have quoted general statistics for the overall US?
A. That is right.
Q. And, of course, that includes state, it includes low - low category prisons?
A. That is right.
Q. It includes federal, the whole - the whole kibosh?
A. The whole kibosh, yes.
Q. And we know that there are millions of people incarcerated in the US ranging from fairly petty offenders to ---
A. That is right.
Q. To major?
A. That is right.
Q. So perhaps not surprising given that that over the overall position, which will include some people there, young people for relatively minor matters, the suicide rate is less?
A. That is right. I think that is one explanation for the relatively low rate, yes.
Q. And there is a massive, massive percentage of the population in prison in America?
A. Well, that is not quite right, is it. I mean, it is about - I think it is 2.1, 2.2 million people.
Q. Yes.
A. And I think the population of America is, is it 350 or 365 million, I do not know.
Q. Right. But a very significant number of the pop - a significant ---
A. I think it is around seven - 700 per 100,000 people, which is, compared to the UK where I think it is around 140 per 10,000.
Q. Yes, yes.
A. So it is about six to seven times more.
Q. I am grateful, thanks. That is helpful. So that may - but what I am asking you to do is

- in terms of the suicide risk is to deal with the question of the suicide risk of someone subject to special administrative measures in pre-trial detention or someone in confined post-trial in ADX Colorado. Can I just ask you if you can assist us on that, are you an expert in - on SAMs and ---

A. No.

Q. --- people subject to that?

A. No, so I cannot assist you.

Q. So you just cannot assist us on that?

A. I cannot, no.

Q. And would you accept that other people may well know what the conditions are and what their effects are better than you on that?

A. Oh, definitely.

Q. Yes.

A. Yes.

Q. So we need to ask the US experts on that?

A. Definitely, yes.

Q. Right. And in - equally, in relation to ADX Colorado, I take it you have never been - have you been to ADX Florence, Colorado?

A. No, I have not, no.

Q. But you are familiar with the literature about it?

A. I mean, I am - no, I mean I would say I am - I am superficially familiar.

Q. Yes.

A. I am not familiar in any detail with the literature about it.

Q. Not familiar with it being described as “a clean version of hell” or by the warden himself as “unfit for human habitation”?

A. No, I am not, no.

Q. No, OK. But would you accept that that is something where, again, those who have expertise in the effects of ADX Florence, Colorado on those who have the misfortune to be incarcerated there, they would be the people to ask?

A. Yes.

Q. Not you?

A. Yes.

Q. And all you can do is give us some general statistics comparing what happens in the two million people ---

A. That is right.
Q. And so ---
A. Yes.
Q. --- would you accept in addressing this particular case, it is of some - of limited assistance?
A. Not really, I mean, because I know something about risk factors. So we are not just talking about the prevalence of suicide, are we.
Q. No, I am so sorry.
A. We are also discussing risk factors.
Q. Professor, I am not - I am just saying, the statistic that you have quoted about the suicide rates in the UK and the US is of limited assistance ---
A. Yes.
Q. --- in addressing the issue that we have got to address here, would you accept that?
A. No, not entirely because, I mean, first of all, I mean, you drew attention to it as well in the other article in the defence bundle and I think any statistics might be compared to the baseline rate of suicide in the US. So, for instance, when people say it is higher in one place compared to another, you still need to know what the baseline suicide rate is. So, for instance, if someone says to me in SAMs the suicide rate is two times higher, let us say for the sake of argument, then it is relevant to know what the suicide rate is.
Q. Yes, I ---
A. Yes.
Q. I appreciate that.
A. So, in that sense, it is relevant.
Q. Right, right. And would you accept though that your own literature and the world literature suggests that it is inappropriate to detain those suffering from mental illness in conditions of isolation?
A. So I think the wording that you quoted to me earlier was the wording that I would use.
Q. Which is?
A. We would have to go back to that.
Q. Oh, sorry, your own wording you mean.
A. Yes.
Q. OK.
A. So I said it seems to exacerbate and, therefore, it is not recommended.
Q. Not recommended?

A. There will be, of course, individual factors that have to be considered in every case. So for some - in some individual cases, it - there may well be good reasons ---

Q. All right.

A. --- to use special - special measures.

Q. Right. Now the other matter that you commented on was that, when you saw Mr Assange and formed your view in March, at that stage his mental condition was not sufficiently severe to remove his capacity to resist suicide?

A. That is right, yes.

Q. But would you accept - I mean, just generally, this notion that there is some irresistible impulse is not a medical notion, is it?

A. That is right.

Q. I mean, what happens is that the person's perception of the world becomes so dark and catastrophic that they feel driven to suicide and that is how the depression influences them, is that right, is that a fair way of putting it? It is not as if you have an irresistible impulse but you see the world in such catastrophic terms that you feel driven to suicide?

A. I think that it is often multifactorial.

Q. Yes.

A. So it is often there are triggers, there are underlying problems, there are traits, so it is usually a combination of a range of predisposing and precipitating factors and I think we all agree that depression can be one of these factors.

Q. Yes, but what depression would so is to reduce the capacity to think rationally and resist. Is that right?

A. I would have to think about that a little bit.

Q. Well, let us take the depressive woman who takes her life and who sees things in a catastrophic state and takes their life. Is it possible to talk about an irresistible impulse, or does one just say their illness affects their decision to take their life and reduces their capacity to resist that, the desire?

A. So again, the word "capacity" is not a medical term usually, so the number of non-medical terms.

Q. Right.

A. So I think when psychiatrists talk about this issue they talk about factors contributing or increasing the risk and, like I say, we talk about many factors combining with each other and some of the are predisposing, some of them are precipitating, and it is really the accumulation of these factors which is important, and it is very difficult to predict on an

individual level how many of these factors you need there to be to move someone from ideation to them acting on the ideas and plans that they have.

Q. But would you accept this? That if he was severely depressed, he was severely depressed and in isolation, Mr Assange's mental condition might well reduce his capacity to resist a suicidal prompting from his mind?

A. If he is severely depressed and in?

Q. Isolation.

A. Isolation, his mental condition might well – sorry, say that again. His mental condition might?

Q. It might reduce his capacity to resist.

A. Yes, I think I would agree with that, but I would not say substantially reduce, I would say reduce because I think there are other factors that have to be considered, but they are two important factors and I think again I think I have stated that in my report as well.

Q. And that is probably as far as psychiatry can go, is it not, just to see factors which, as you say, contribute or reduce the capacity?

A. I think so.

Q. Yes. And we will never get to a stage - I mean it is a metaphysical nonsense to talk about irresistible impulses. If it not known to medical science, is it?

A. Well, not, no. That is not my understanding to talk about irresistible impulses, yes.

Q. So what we can talk about is a human society tries to reduce the risks and reduce the pressures which lead to suicide.

A. Exactly, yes.

Q. And that is what your article is talking about. Let us reduce isolation because it exposes to it, reduce the sense of hopelessness from a lifelong detention, and therefore ---

A. Treat the underlying illnesses.

Q. Yes.

A. Remove ligature points.

Q. Afford them treatment.

A. That is right.

Q. And if all those go, you are exposing someone to a very real risk of suicide. Someone who his mentally disordered and has expressed prior suicidal ideation.

A. Yes. I mean I do not use the word "very real risk" because I think that again is not medical language, but it would increase the risk, or elevate the risk. That is the way we would phrase it.

Q. And it might do so unnecessarily and inappropriately?
A. Again, I cannot use those words because it comes with a lot of ---
Q. OK. Because they are moral judgments?
A. Yes, it comes with a lot of assumptions.
Q. All right. So basically you can be of limited assistance to us on all these issues. Is that basically the answer?
A. Well, I have said what I have said.
Q. Yes, OK, fine. Now just help us about this. At paragraph 5.4 of your opinion you said that, "I agree with". I am so sorry. You say you noted Professor Kopelman's views on whether Mr Assange has an autistic spectrum disorder and his caution about a diagnosis. "I agree with the view that Mr Assange has some autistic-like traits." OK?
A. Yes.
Q. Just pausing there. What are the traits that are autistic-like?
A. So there is some reduced expression, some reduced social interaction, not picking up on social cues, not having spontaneous conversations. There was some also history reported in Professor Kopelman's report which again was consistent with this in relation to his excessive interest in one or two areas. So that is the view I took, that there are some traits which are autistic-like.
Q. But you then very fairly say that you are not an expert.
A. That is right.
Q. Yes. And you would accept that Dr Deeley is an expert?
A. That is right, yes.
Q. And you have not carried out any of the tests that he carried out?
A. That is right, yes.
Q. And you would accept that those tests, I think called the ADOS tests, that is the standard way of testing for autism spectrum?
A. So Dr Deeley did not carry them out, someone else carried them out is the first point. And the second point is that they are usually part of a clinical diagnosis, so they are not taken in isolation, they are taken with all the other information and I think Dr Deeley explained that quite clearly this morning.
Q. So first of all the test, I accept that, and then there is the clinical ---
A. Yes.
Q. And, of course, he observed the test being carried out, but then he also made his own assessment.

A. That is right, yes.
Q. So that was an entirely appropriate way to go about assessing the presence of ---
A. Yes.
Q. And what you say there is, "I wouldn't recommend any further investigation into this matter as it's unlikely to make any material difference to his treatment." Now, what did you mean by that?
A. So I was specifically thinking about the depressive illness and I was thinking about what additional treatments one would provide in someone who is depressed and has autistic-like traits and in my mind the treatment that Mr Assange was receiving, which was a combination of medication, mental health follow-up by the in-reach prison team, and psychological treatment was appropriate treatment.
Q. All right. But if we are dealing with the question of risk, would you accept that the presence of an Asperger's syndrome, the risk of suicide is relevant? I mean I quite follow the point you are making there about treatment.
A. Oh, OK, yes.
Q. But if it is present ---
A. Yes.
Q. --- then it does make a difference to the assessment of risk of suicide.
A. I think it does, yes.
Q. I am grateful. And you have seen the statistics, Baron-Cohen's statistics, nine times more likely to commit self-harm and ---
A. I think it was ideas. When I heard you talk about it, it was ideas.
Q. Yes. I am so sorry.
A. And ideas, again, I think it is important not to conflate ideas with self-harm and, again, not to conflate self-harm with suicide. So the fact that suicidal ideas are increased in people with autistic spectrum disorders, I think that is robust, so I have no reason to disagree with that.
Q. Yes. Actually we are both wrong.
A. Oh, are we?
Q. It is in edition Cassidy Baron-Cohen et al ---
A. Yes.
Q. --- have found that in Asperger's, ASD diagnosis in adults increases the experience of suicidal ideation. So it is suicidal, but it is ideation. So you are right about the ideation.
A. Yes.

Q. You are wrong about the self-harm.
A. No, I think I made that clear.
Q. Oh, OK.
A. I said it was suicidal ideas.
Q. Oh, suicidal, but nine times compared with the general population.
A. That is right, yes.
Q. But suicidal ideation. I am so sorry. But it does increase, that is to say the suicidal ideation, ---
A. That is right.
Q. --- by nine times.
A. Yes.
Q. And so you have fairly accepted that it would be relevant to ---
A. It would be.
Q. --- that issue.
A. Yes.
Q. And, indeed, you are probably familiar with the case law in this country, the case of Lauri Love, the case of Gary – my brain has gone.
JUDGE BARAITSER: McKinnon.
MR FITZGERALD: McKinnon, Gary McKinnon, where the presence of autistic spectrum disorder plus the risk of suicide were significant in the decisions not to extradite.
A. I am aware of that, but I am not in an expert in this area. Yes.
Q. So whilst it might not make any difference to the treatment currently being given in the UK, you would accept it would be relevant to the issue of risk of suicide?
A It would be and I think it is important also there to also think about the baseline rate of suicide in people with autistic spectrum disorders. So again it may well be elevated, compared to the general population, but we have to bear in mind what the general population rate is, which I think in men is around 15 per 100,000. So that needs to be always borne in mind.
Q. I appreciate that, but the humane approach is to seek a way to reduce avoidable risks. Would you accept that?
A. Yes, I would.
Q. And then if we go on from there just dealing with that, so if one assumes that Dr Deeley is correct that he does suffer from Asperger's syndrome, or ASD, sorry, that would be a reason to take the view that the risk of suicide if he is extradited would be increased?

A. Well, I think it would have to be seen in relation to all the other risk factors, yes, so it is one risk factors.
Q. But it would be an additional risk factor, would you accept?
A. Yes, it would be.
Q. And as to that, I appreciate that you did not think it was necessary, but now that you have heard that evidence, would you accept that there is good reason to think that he suffers from Asperger's, ASD?
A. That is not my own view, but like I say I did a clinical examination focusing on other issues, but I did not form the view that he was clear-cut case of someone with autistic spectrum disorder and I note that nor did Professor Kopelman, who is a neuropsychiatrist, nor did Professor Mullen, nor did Dr Blackwood. So I think, you know, four experienced clinicians did not find that it was a clear-cut case and I think all of us felt that there were traits, but we did not go as far as to say that there was a clear-cut diagnosis.
Q. You all saw traits, Professor Kopelman said, "Let's ask the expert."
A. Yes.
Q. And we have now asked the expert and we have heard from him today.
A. Yes.
Q. And you are not saying he is wrong?
A. But I do not agree based on my clinical examination, and from what I heard today I would not change my view here, which is that he has autistic-like traits.
Q. He does have autistic-like traits?
A. Yes.
Q. Yes, but you have said that you are not in a position to claim the expertise to say he is wrong. Is that right?
A. Well, I think it is easier for me just to focus on what I have said. Yes.
Q. Yes, and I think just to confirm, you said you had been to an American prison. Is that right?
A. I have been to two, yes.
Q. Were they state prisons or federal prisons?
A. So one was a local what they call a jail.
Q. Yes.
A. Was local, and one was a state prison. Yes.
Q. So one was a local jail and one was a state ---
A. Yes.

Q. You are not familiar with the federal prison system at all?
A. No, I am not
Q. And you are not familiar with Alexandria Virginia?
A. No, I am not.
Q. Or the circumstances of Chelsea Manning's attempted suicide there? You do not know anything?
A. No, I am not. I am not familiar.
Q. OK. And you are not familiar with ADX Colorado?
A. I am not familiar.
Q. Or the suicide rates there or anything of that sort?
A. That is right, I am not familiar.
Q. So you cannot really assist us on those matters.
A. No, I cannot.
MR FITZGERALD: I am grateful. No further questions.
JUDGE BARAITSER: Thank you very much. Mr Lewis.

Re-examined by MR LEWIS

Q. Just one or two points in re-examination. You were asked about the risk factors. Would a sentence to a much shorter term shorter term than life imprisonment modify the risk in your opinion?
A. Yes, it would. I think actually there is good – there is some evidence in support of that. So, a study that I did which is a review of risk factors for suicide found that there was a lower risk in people who had shorter sentences compared to people who had longer sentences and that risk then went up a little bit more if you had a life sentence. So, in a sense there was a continuum where the risk went up based on the length of the sentence.
Q. Thank you. You were referred to the definition of solitary in an article you have written ---
A. Yes.
Q. --- and I think it was in the defence bundle, tab 8, entitled "The Health of Prisoners".
A. Yes.
Q. And at 166 you were shown, "Solitary Confinement Seems to Exacerbate Symptoms of Mental Illness.".
A. Yes.

Q. And in fact, the footnote which it is referenced to is footnote 19, and if we look at footnote 19 we see that is Arrigo and Bullock, The Psychological Effects of Solitary Confinement of Prisoners in Supermax Units.

A. Yes.

Q. Now, stemming from that, we do in fact have or Mr Sickler produces extracts from that report within a report. He cites "Federal Bureau Prisons Special Housing Unit Review". I do not have it immediately to hand so I will simply read it out to you because it is something Mr Sickler said. And what he said, this is page 40, "Although many researchers and experts agree that administrative segregation is generally not a suitable placement option for inmates with serious mental illness, the evidence on whether such placements causes deterioration among mentally ill patients is mixed. For example" – and it has quoted the same footnote, Arrigo and Bullock which you have quoted.

And he goes, so this is a quote from it, "For example, a 2010 study of administrative segregation in the Colorado corrections system found not only did inmates with and without mental illness not deteriorate while in segregation, but some actually exhibited signs of improvement.". So, would it be right that it is really always a matter of fact and agree?

A. It is a matter of?

Q. Fact and agree or depending on a whole number of circumstances?

A. I think that is generally true. I mean, I think I would, I think also, I mean, I worded it cautiously, I wrote in the article it seems to increase the risk, probably reflects the fact that the evidence base was not particularly strong because I am only referencing one article.

Q. Right.

A. So, it is not something that as far as I know a lot of people have studied in good quality studies.

Q. You were also then asked, Professor, about SAMs and you were asked to assume what solitary confinement meant.

A. Yes.

Q. And that was in line with the defence assertions of what solitary confinement meant.

A. Yes.

Q. But if we just look at what the government says in relation to SAMs and this is – madam, my Lady, for your note it is Gordon Kromberg 1, paragraphs 83, 86, and 87 – and just for ease of reference, rather than find them Professor, I will just read out what he says.

So, it is "GK1", paragraph 83, and this is pre-trial because it is agreed pre-trial he is going to go to what is called the ADC, the Alexandria Detention Center, that is an agreed

position, so pre-trial, "If and when Assange arrives in the ADC he will be initially held in the booking area of the facility and he will be interviewed to determine where he should be placed in the ADC. ADC staff will also complete a risk assessment to determine any risk to Assange from his detention. Using an objective point scale the ADC staff will make a recommendation about where Assange should be housed. He will then be assigned to the appropriate housing unit. There is no solitary confinement in the ADC.".

Then at paragraph 86, "Inmates in the ministry of segregation are housed in their cells for a maximum of 22 hours a day. They receive breaks according to an established break schedule. The inmates typically use these breaks to make personal telephone calls, attend to hygiene needs. Inmates in the ministry of segregation are able to attend three programmes including programmes with general population inmates per week. They also received all ADC services." And at ---

MR FITZGERALD: Is my learned friend suggesting that is what happens under special administrative measures?

JUDGE BARAITSER: No, as said, pre-trial, not SAMs.

MR LEWIS: This is pre-trial.

MR FITZGERALD: Yes, but you can get SAMs pre-trial.

JUDGE BARAITSER: Well ---

MR LEWIS: Well, I am suggesting this is the segregation ---

JUDGE BARAITSER: --- there are various stages are there not? They are ADSEG and there is SAMs. Presumably he is going to ask about both.

MR LEWIS: I am.

MR FITZGERALD: Well, yes, if he is going to deal with – he said, he was talking about SAMs and now he is talking about ADSEG which is completely different.

JUDGE BARAITSER: Well ---

MR LEWIS: Madam, SAMs can be as little as, because the Reed bomber was held under SAMs so he was allowed to communicate with the press and give press releases.

JUDGE BARAITSER: The point is, you are putting the government's position ---

MR LEWIS: I am.

JUDGE BARAITSER: --- about his conditions and asking for comment.

MR LEWIS: That is exactly right. That is exactly right. And then if we go to 87, "Typically, there are several inmates in administrative segregation. Inmates in administrative segregation are able to speak to one another through the doors and windows of their cells. Additionally, if it is safe to do so, they may be in the day room at the same time as other

inmates.". And then importantly, "Moreover, placement in administrative segregation has no impact on an inmate's ability to meet with his or her lawyer.". And I think we have had evidence of up to six hours a day meeting with lawyers. So, if that were the position, would you describe that as solitary confinement?

JUDGE BARAITSER: Well, I am not sure you can ---

MR LEWIS: Ah.

JUDGE BARAITSER: --- I am not sure that is a definition. Perhaps you can ask the question which you actually want the answer to?

MR LEWIS: Would you describe that as having the adverse effect that my learned friend put to you?

A. No, I mean that was different to what counsel put to me so that was very different. So, it, as I said, I can just talk in general principles here but in terms of general principles what I would be looking for is some opportunities to meet other people, associate, to exercise, have medical treatment available, and ability to have some form of counselling if necessary if there is a deterioration in one's mental state.

Q. And so, there is no doubt, I am just going to read you paragraph 97, helpfully reminded to me by Miss Dobbin, this is SAMs, pre-trial.

A. Yes.

Q. "Special administrative matters may include restricting social visits, mail privileges, phone calls, as well as placing an inmate in administrative segregation. Regulations generally exempt from monitoring correspondence, calls, and contacts between inmate and his attorney.". So that even if are, well, I will not say it, but that is the position pre-trial.

And then if we go to post-trial which is, and in fact the Supermax. I am going to go to the Supermax which is the ADX SAMs, Colorado – and that is, my Lady, "GK5", paragraphs 32 to 38. So, that is – in the prosecution bundle, my Lady, that is tab 13, Gordon Kromberg, fourth supplemental, I have described it as Gordon Kromberg 5. And I am just going to read you some of the conditions in the ADX, Professor.

32, these would be the conditions if, I am not saying this will be the case, but if he were to be sent to the ADX, paragraph 32, "Each ADX inmate has a 13 inch television in cell which generally provides channels for closed circuit institutional programming; recreation, education, and religious services and psychology, broadcast channels, radio stations and digital music. One of the television channels is utilised to provide bulletins to the inmates and shows date and time. The televisions and select broadcast channels are paid through profits from inmate commissary or canteen purchases.

Even if Assange is to be housed in the ADX, he would have ample opportunity to participate in programmes and socialise with inmates and members of the public. ADX inmates are provided with access to both indoor and outdoor recreation with the amount of time varying by units as explained below. When inmates go to outside recreation they have access to sunlight and fresh air. Generally, the areas contain pull-up and dip bars. Inmates can play with handballs and soccer balls.

Inmates may request instruction in aerobic exercise from ADX recreation staff. Inmates have access to psychological programming, individual and group sessions, educational programming and group and individual wellness programmes, weekly leisure games via the ADX closed circuit television system, weekend brain teaser games, arts and crafts, a weekly movie programme, special holiday activities.

Contrary to the assertions in Mr Sickler's affidavit, there is no contradiction between close controls and the provision of basic amenities and life enhancing programmes. Inmates housed at the ADX may subscribe to periodicals, may borrow leisure reading material from the institution library, may take GEC adult continuing education, correspondence classes, they may paint, draw, or crochet, may participate in a weekly bingo game, may participate in art, essay and poetry. Inmates may make purchased from the commissary including food items, toilet, pens, paper and religious items.

From 1 February 2020 through August 15, 2020, 222 inmates of the ADX participated in some group of individual programming. The following are examples of the group programmes available at the ADX; Seven Habits for Highly Effective People, How to Draw, Thresholds, Managing Diabetes, Five Love Languages, GED Testing, Wellness Recovery, Positive Psychology, Release Preparation Programming, Money Smart, Victim Impacts. The ADX also has a robust creative arts programme known as CAP. The CAP is designed to expose participants to a variety of different artistic methods, ideologies, and entrepreneurial techniques that prepare them better for re-entry. The CAP also centres on teaching inmates to develop a stronger work ethic in channelling their artistic spirit. There are three unit phases.". Sets those out.

37. "The inmates of the ADX are encouraged to engage with family and friends in the community through social visits, correspondence, and telephone calls. All inmates are ordinarily given the opportunity to have up to five in person social visits per month.".

And I am just dropping to the middle of 38, "Inmates receive regular visits from medical staff, education staff, religious services staff, psychology staff when they perform

their rounds and upon request if needed, medical staff visit each unit daily." Would you describe those conditions as solitary confinement?

A. No.

JUDGE BARAITSER: Again, that is not really his question, the question is how would he respond in those conditions, or something like that.

MR LEWIS: All right, my Lady, yes. That is better put.

MR FITZGERALD: Yes, also my learned friend just has not referred to H unit which is what all the evidence has been about.

MR LEWIS: So, those conditions, how would those conditions affect the risk?

A. Um, well, I think, I mean, there is two questions I would have. One, is to what extent are these implemented and second is, you know, the quality of them. So, I mean, I think it is on the face of it, it looks like there is a range of activities and also treatments that will help reduce the risk but I would want to know more about you know, whether they are actually implemented in practice and the quality of them so I think on their own they – it is difficult for me to say a lot because I, like I say, it is, it needs to be supported by information on whether these happen and the quality of the, ---

Q. OK.

A. --- of the interventions.

Q. And a small point, you talked about the Barry Cohen report and treatment and you were talking about suicidal ideation ---

A. Yes.

Q. --- but I want to make sure there was no slip there. Does suicidal ideation necessarily correlate to committing suicide?

A. So, it does correlate, yes, that is right, so that people who die from suicide have had much more frequent suicidal ideation but it is not straightforward because it is estimated that many million people every year have suicidal ideation but a minority of those people actually act on those and even less die from suicide. So, suicidal ideation is quite common experience. In a lifetime, many people will experience suicidal ideation at one point or another. It is very different to acting on that and then acting to die from that.

Q Thank you, and then finally, you were asked about autism and whether, and taken to autistic traits, but just in your opinion, do you, and from your examination, do you think the traits reach the autistic spectrum, being classified as autistic on the autistic spectrum?

A. Well, I was not, I did not, I did not come to that view, but with the caveat that I would have only come to that view if it was clear-cut and I think that is why in my view none of the

other experts, apart from Dr Deeley, came to that view because it is not clear-cut and as clinicians, we all have training in diagnoses, including experiencing people with autism spectrum disorders and we are able to recognise it if it is clear-cut and I think that we would agree and I would agree that there are traits there. They are traits that are evident from the history and also from interview and that is, I think, as far I would go.

Q. So, if there is a spectrum, which end is he at?

A. Well, on the basis of my assessment and with the caveats I have said before, it would be on the mild end.

Q. Thank you very much. That is all I ask. My Lady, do you have any questions?

JUDGE BARAITSER: No, I do not. Thank you very much indeed for coming to court to give your evidence. Your involvement in the case has finished and you are very welcome to go or watch the rest of the proceedings as you choose. Thank you.

(Witness withdrew)

JUDGE BARAITSER: Now, what can everybody dealt with this afternoon by way of agreement? Are there witness statements that I can receive now?

MR FITZGERALD: If you could give us just ten minutes, I think we could probably deal with the psychological psychometric testing, because there is agreement between my learned friend and myself that we can read out certain passages.

JUDGE BARAITSER: Can I just clarify, in relation to Professor Mullen, do you no longer rely upon him or is he agreed?

MR FITZGERALD: No, my Lady, the report that he did, that is to say the historical report that he did in 1995 obviously is a fact that Professor Kopelman relies on as part of his thing, so that we would ---

JUDGE BARAITSER: So I can discard the report itself.

MR FITZGERALD: Yes.

JUDGE BARAITSER: Thank you, alright. Ten minutes, then, for you to agree the next statement. When we come back, can we have the witness order going forward, please? Can we have that ready for ten minutes also?

UNIDENTIFIED COUNSEL: We can try.

JUDGE BARAITSER: Well, I was promised by close of business today, so hopefully that will be forthcoming. Thank you.

(Short adjournment)

JUDGE BARAITSER: Thank you.

MR FITZGERALD: My Lady, can I then read the - you will find it at tab 79.

JUDGE BARAITSER: Thank you.

MR FITZGERALD: And it is the neuro psychological report of Kate Humphreys. My Lady, I will, if I can, just gist this because it is quite dense stuff. And you will see, "Confidential neuropsychological report concerning the current neuropsychological function of Mr Julian Assange". It is based on an assessment on 3 January 2020 and a report dated 23 February 2020 and she introduces herself as an expert, "I, Kathryn Jane Humphreys, clinical psychologist and clinical neuropsychologist, have provided clinical neuropsychological services since 2009".

She sets out her many qualifications as a clinical psychologist, including that she is a member of the British Neuropsychological Society and Associate Fellow of the British Psychological Society and is on the BPS Special Register of Clinical Neuropsychologists, and she then states that, "In preparing this report, I conducted a neuropsychological assessment of Mr Julian Assange in a private room at HMP Belmarsh in the Healthcare section. Standardised, widely used neuropsychological tests and a standardised questionnaire of mood and anxiety were used. I also interviewed him very briefly about his current cognitive difficulties and mood state as well as his educational and occupational history".

And then, "The assessment was conducted over a morning session and an afternoon session. The morning session was terminated earlier than I was told it would, which meant, unfortunately, one verbal memory test was interrupted and needed to be repeated in the afternoon. This may have acted to inflate scores on this single test. Also, unfortunately, there was, intermittently, a lot of noise from the corridor outside which meant that instructions had to be repeated on occasion which sometimes interfered with Mr Assange's already poor concentration".

And then it is not agreed, the background, because that sets out Professor Kopelman's report, so we can take out the rest of page 2, page 3, 4, 5 and 6 which recite other matters. But the test results from page 7 onwards are agreed by the prosecution and you will see, "General intellectual ability", it sets out there and then it deals with - "Give an estimate premorbid optimal level of functioning in high average range. When combined with demographic variables, however, in my opinion this is an underestimate. In my opinion, his educational and occupational history suggest an optimal level of intellectual functioning in at least the superior but more likely the very superior range".

And then it deals with the tests that were there conducted and sets out his scores and then one sees that his performance in this test, "He performed in the average range on the single verbal reasoning subtest that he completed significantly below his likely superior or

very superior optimal level. He was unable to complete a second verbal subtest as he felt overwhelmed with information and nauseous but performed in the low average range on the amount completed. He performed in the low average range on a single non-verbal reasoning subtest which should have been extremely easy for him. Of note, on four problems from the 10 simple matrix reasoning problems attempted, Mr Assange said that he could not provide any response. A second non-verbal subtest was abandoned due to his feeling overwhelmed and unable to continue. Overall, he is clearly performing well below his expected level".

Then it deals with memory and orientation and the tests and you will see the scores set out there. "He appeared able to remember his medications to give a reasonable account of his history and difficulties. Verbal memory was generally impaired with the exception of delayed recall of a word list, which was low average". Then there is the visual memory tests are set out, low average. Spontaneous speech under language was often slower and quiet with occasional indistinct articulation. His picture naming was high average with no word finding difficulties apparent. Comprehension was not formally assessed, however he sometimes appeared slow to understand questions and task instructions".

And then visual perception and visuospatial skills, you have set out there. Executive functioning, and one sees the scores there. Just taking you to towards the bottom of page 9, "Two untimed tests of executive functioning were also conducted. His cognitive estimates were borderline and there was evidence of some poorly reasoned responses". And then one sees those answers. In speed and attention, "Informally, Mr Assange was noted to find it difficult to sustain his attention for more than a few minutes without a break, particularly during the morning testing session. His performance on tests of auditory attention and working memory was impaired at a low average, although there was an exceptional amount of background noise during the former task. He performed in the impaired range on written tests of processing speed. His responses were very slow across most of the assessment, although not universally so. For example, his responses on a line orientation task were relatively quick".

And then one has the various further tests, "Mr Assange passed the test of memory malingering, indicating he was very unlikely to be malingering. He also passed the RBANS Effort Index which tests for suboptimal effort. He narrowly failed the enhanced reliable digit span test, but there was exceptionally loud background noise during that test which appears to have, understandably, interfered with his ability to focus.

"Summary. Mr Assange's premorbid optimal level of ability was estimated to fall in the superior to very superior range. Relative to this, there was evidence of significant

intellectual under-functioning. Episodic memory was impaired or very weak on most tasks administered. Informally, he sometimes struggled to understand long task instructions. Performance on one visuospatial task was impaired. Executive functions were impaired or very weak on most tasks administered. Attention and working memory were weak. Processing speed was impaired. These results were obtained in the context of likely severe anxiety and severe depression.

"Conclusions. It is my opinion that Mr Assange is currently functioning significantly below his optimal cognitive level and, indeed, in the impaired range in many cognitive domains. Of particular note, the results indicate his thinking is very slow, his attention span is limited, his memory is weak or impaired and, intellectually, he is functioning well below his expected level. Further investigations as requested by Professor Kopelman are necessary in order to determine the underlying cause of the established cognitive impairment and Professor Kopelman will be reviewing all the findings together".

And the next two sentences, by agreement, are deleted. "It is my opinion that Mr Assange's cognitive abilities are likely to fluctuate with his mental state". And that is the limit - again, paragraph 5 is not agreed.

JUDGE BARAITSER: So, just to be clear, the sentence that is deleted begins, "However" and ends "entirely."

MR FITZGERALD: Yes, yes.

JUDGE BARAITSER: Thank you.

MR FITZGERALD: Yes, so, my Lady, that is the agreed part of her administration of the tests and her report on those.

JUDGE BARAITSER: Thank you.

MR SMITH: My Lady, forgive me for rising at this point, apologies to my learned friend. I understand the press cannot hear whose statement is being read, so just formally for the record perhaps it could be repeated. Forgive me for interrupting.

MR FITZGERALD: OK, OK. They could hear the rest of it, could they?

MR SMITH: Yes, it was just the name.

MR FITZGERALD: OK, the tests were administered by Dr Kathryn Humphreys, clinical psychologist and clinical neuropsychologist.

JUDGE BARAITSER: Thank you very much.

MR FITZGERALD: My Lady.

JUDGE BARAITSER: Now, I think, I have received an email with a witness timetable. Indeed, I have.

MS IVESON: Madam, yes. And you will see from the email that the three witnesses that are not dealt with there are Witness 1 and Witness 2 and Aitor Martinez. Those are the Spanish witnesses. Madam, you will recall that for a considerable period, we had understood those witnesses to be agreed and that they could be read. Calling that evidence is not without its difficulties, as you may recall. We are seeking to address that. We do not have a clear position on that at present. We will keep you updated. I am not sure there is much more I can say about that.

JUDGE BARAITSER: No, thank you.

MS IVESON: And, madam, I am sure in the short time that you have had to look at it, you will not have been able to note but there are three witnesses which we have culled, effectively, to enable everybody else to be fitted in and, in due course, we will take those out of the bundle.

JUDGE BARAITSER: Thank you, that is very helpful. The issue of press access, when is that going to be dealt with because I think there is some anxiety about it?

MR FITZGERALD: Is that ---

JUDGE BARAITSER: Perhaps I need to hear submissions. When can that take place?

MR FITZGERALD: Is that press access to the medical reports?

JUDGE BARAITSER: That is correct.

MR FITZGERALD: Oh, right, we need to take instructions on that. I do not know whether - can we do it Friday?

MR LEWIS: Madam, I have just sent you a skeleton argument.

JUDGE BARAITSER: Oh.

MR LEWIS: With all the cases. Madam, I do not propose - my learned friend needs to look at that skeleton argument. We all need to look at it. It will take a couple of days, I would have thought. And if you have had the advantage of reading Lady Hale's judgment in *Dring*, it will give the court good guidance.

JUDGE BARAITSER: That was very helpful. Now, with your permission, I will forward this on to the Press Association.

MR LEWIS: Yes, certainly. Madam, can I deal with tomorrow.

JUDGE BARAITSER: Yes.

MR LEWIS: And Dr Blackwood, as I understand it, has an appointment in the morning. He was never going to be other than tomorrow afternoon. The earliest he can be here is 12 tomorrow.

JUDGE BARAITSER: I see. I thought Dr Crosby was going to give evidence earlier.

MR LEWIS: Well, I am not sure if he is ---
JUDGE BARAITSER: She I think it is. Is it she, Dr Sondra?
MS IVESON: It is, yes.
MR LEWIS: Is she coming?
MS IVESON: She is available. If Dr Blackwood is not available until 12, I wonder, given the likely shortness of her evidence whether we might start a little later because she is in Australia. I am so sorry, she is in the States, so I think it would be of assistance to her if we started a little later.
MR LEWIS: Or perhaps we could deal with her after.
MR FITZGERALD: Yes, give us a break.
MR LEWIS: Madam, I appreciate ---
MR FITZGERALD: She will be up at 5.00 in the morning.
MR LEWIS: --- case management, but as we would say at the bar this is a really punishing case. My learned friend was up at 4.30 this morning. I was up at 5.00. We really work hard on this. To cross-examine experts in the way to assist the court is punishing and, madam, we would quite like a time for a bit of relaxation I think tomorrow morning and if we can have not before 12.00.
JUDGE BARAITSER: I am just looking at the witnesses tomorrow, there is only Dr Blackwood and Dr Crosby to be called.
MR LEWIS: Yes, and we will easily get through them. But if we could say not before 12.00 then my learned friend can have a look at the journalistic articles, if we can just regroup and we would ask the court's indulgence on that ---
JUDGE BARAITSER: Is Dr Blackwood appearing in person?
MR LEWIS: Yes.
JUDGE BARAITSER: Or over a link?
MR LEWIS: No, he is here tomorrow.
JUDGE BARAITSER: I see. And 12 noon would suit US time difference for Dr Crosby.
MS IVESON: Yes, as long as - yes, thank you, madam.
JUDGE BARAITSER: Is that right, as long as?
MS IVESON: Yes, I am sure we can fit her in after Dr Blackwood.
JUDGE BARAITSER: Ah, well, Dr Blackwood is appearing at 2 o'clock. I was hoping that Dr Crosby would appear at 12 noon.
MR LEWIS: Well, he can be at 12.00.
JUDGE BARAITSER: Oh, he can be at 12.00.

MR LEWIS: I am told that he will be - the earliest he could be here is 12.00. I think that is right.
JUDGE BARAITSER: All right, so he can take the 12 noon slot.
MR LEWIS: So if we finish him by 3.30 - well, he is down for an hour and a quarter's cross-examination.
MR FITZGERALD: Is that right?
MR LEWIS: My learned friend has only got an hour and a quarter. He has not asked for anymore.
MR FITZGERALD: Oh.
JUDGE BARAITSER: Well, I have given you some leeway. Maybe he wants longer. Do you want longer?
MR LEWIS: I will be 10 minutes.
JUDGE BARAITSER: You will be 10 minutes.
MR FITZGERALD: If my learned friend is 10 minutes and we start at 12.00 ---
JUDGE BARAITSER: Yes.
MR FITZGERALD: --- yes, I would think I would be finished by 3 o'clock, certainly.
JUDGE BARAITSER: 3 o'clock.
MR FITZGERALD: My Lady, it may be less but I just do not know how ---
JUDGE BARAITSER: Right. And then Dr Crosby at 3 o'clock.
MR FITZGERALD: Yes.
JUDGE BARAITSER: With an anticipation that she will not take terribly wrong, is that the idea?
MR FITZGERALD: Yes, I think if that is ---
MR LEWIS: Yes, and that would mean she could be accommodated in the States and we would get the full day's work in.
JUDGE BARAITSER: Now, even on this timetable, there is no time for submissions I note. How were you proposing to manage that situation?
MR FITZGERALD: Well, my Lady, I think the best proposal would be that we be given some time to put our – I am respectfully suggesting, I am not trying to ---
JUDGE BARAITSER: No, of course.
MR FITZGERALD: But that we be given some time to assemble our closing submissions and help you with all the passages that we rely on and also, there are in addition a number of references to the written materials which have not been introduced at any stage during the evidence, but they are quite important, for example, on political opinions, the bundle M.

JUDGE BARAITSER: Yes.
MR FITZGERALD: And I think, being realistic about our schedules, we would ask for at least a month to get those in and then if a date be fixed for us to – I think if – I understand the proposal for some time limit, but I think we posing for the defence would need between myself and Mark Summers a day and it may be my learned friend would require three quarters of a day.
JUDGE BARAITSER: Alright, so I have heard what you have said about a day for closing. Mr Lewis?
MR FITZGERALD: A day for us, as it were.
JUDGE BARAITSER: A day for you, yes. Mr Lewis, and for the prosecution?
MR LEWIS: Probably about – well, it depends how – madam, sometimes until we have marshalled the way we are going to deal with the authorities and how much of the authorities you may have the opportunity to pre-read. If you pre-read some of the authorities, it may go more quickly. I would not anticipate more than three quarters of a day.
JUDGE BARAITSER: Alright. Now, the attractive part of this is that you need two days to close. The unattractive part is that you need time between the end of your case and your closing, which throws up all kinds of issues and delays the proceedings by a considerable period and your client remains in custody.
MR FITZGERALD: Yes.
JUDGE BARAITSER: What I am proposing, of course I do not know either of your availability, I have already in light of the likelihood of this happening made enquiries with the Old Bailey. They can accommodate a day or two in week five. If you are available, then that would be my proposal. I am very reluctant to put this case off for a month for you to consider your closing submissions.
MR FITZGERALD: Oh, you mean the week after.
JUDGE BARAITSER: Yes.
MR FITZGERALD: That poses massive problems at present, my Lady, but we – massive problems, but we would have to ---
JUDGE BARAITSER: Can I leave you with the thought that I am profoundly reluctant to delay the closing by any period at all because of the circumstances and by circumstances, I mean, the length of this hearing already thus far and the delay already caused to the hearing and the additional delay that a month to marshal your submissions is likely to cause.
MR FITZGERALD: I know that it would be massively difficult for myself and Mr Summers unless the case is adjourned, but I will ---

JUDGE BARAITSER: There was no indication, there has never been an indication that you would require a month or, in fact, any time at the end of this case to prepare closing submissions. No time has been allocated for that to take place.
MR FITZGERALD: My Lady, the problem was that at the very start, of course, as you recall, we sought an adjournment so that we could deal with the second superseding indictment.
JUDGE BARAITSER: Yes.
MR FITZGERALD: We still need, obviously, to take instructions on that and we have been going, I hope you will agree, at quite a pace going through the witnesses and I do not think we can do justice to Mr Assange's case unless we have a significant period of time to prepare closing submissions. I will obviously take instructions from him about that.
JUDGE BARAITSER: I think you should but not rely at all on me giving you that time.
MR FITZGERALD: No.
JUDGE BARAITSER: You have got tomorrow morning to take – there are pockets of time within which you can continue to take instructions, but I would work on the basis that when the last witness has finished giving their evidence, other than perhaps a weekend, you will be asked for your closing submissions.
MR FITZGERALD: Well, my Lady, we will ask you to hear submissions as to whether that is fair to all parties.
JUDGE BARAITSER: I will hear them but please do not work on an assumption that I will accede to that. Therefore, if you have preparation to do for your closing submissions, then I would ask that you undertake that sooner rather than later.
MR FITZGERALD: My Lady, we have no time. We are preparing the witnesses for next week.
JUDGE BARAITSER: Well, that is the situation you find yourself in, but please do not rely on further time for closing submissions to be given.
MR FITZGERALD: My Lady, I know insofar as your concern as to the custody, obviously, we will speak to Mr Assange, but I know that his main concern will be that we properly and fairly present his case to you and that will be his main concern.
JUDGE BARAITSER: Yes, I understand that, but there has been significant time given for the preparation of this case which you will recall began, well, it was some time ago now.
MR FITZGERALD: Yes. None of us could have predicted the lock down and the massive problems that has caused to all of us.

JUDGE BARAITSER: Yes. Nevertheless, there has been a significant period of time so what I am saying is I have an open mind, but please do not rely on me granting you that time.
MR FITZGERALD: My Lady, can I just make one further point?
JUDGE BARAITSER: Of course.
MR FITZGERALD: I think it is fair to say that in most of the other major cases that both senior District Judge and District Judge Zami have followed this process and found it useful in the sense that then we can put things in writing and have focussed submissions at the end.
JUDGE BARAITSER: Yes, but as you know, these things are fact specific and of course, the history of these proceedings has been a unique one.
MR FITZGERALD: Well, my Lady, I do not think we can do justice to the next Monday, as it were. In any event, can I discuss it with Mr Assange and formulate our submissions on this, but we would respectfully submit that that would not be in the interests of justice.
JUDGE BARAITSER: Well, I will hear submissions in due course.
MR LEWIS: Madam, one thing, I am probably wrong about this, but I just seem to have recollection. My learned friend was in the case as well. When we did the Rwanda genocide in front of the Chief Magistrate, we just agreed to do written submissions to close.
JUDGE BARAITSER: Yes, that is an alternative.
MR LEWIS: We would not mind doing written submissions and have no oral argument because everything has been set out extensively and openly and extensively and whether to just simply, if we could then have a week or so to do written submissions.
JUDGE BARAITSER: Well, that is certainly an alternative.
MR LEWIS: We could then avoid having another hearing.
JUDGE BARAITSER: Yes.
MR FITZGERALD: My Lady, the other problem is I have a professional engagement because we really did not envisage having to proceed straight to closing submissions in the fifth week, so there would be real problems, but again, can I – I think we might be able to make sort of better submissions on this Friday or Monday when we know the fuller picture.
JUDGE BARAITSER: Yes, but of course Mr Lewis makes a sensible alternative which I would ask you to take into account in your submissions and certainly, I will take them into account in my considerations.
MR LEWIS: I think I should just say, just so my Lady knows, the prosecution counsel have professional obligations on the fifth week because, in fact, I was not meant to be here the fourth week. In fact it has been moved, but we all have obligations so that again militates in favour of just written submissions because we can do those outside of court hours.

JUDGE BARAITSER: Alright. Well, I have heard what you have had to say for the time being.

MR FITZGERALD: We will want to address you. I am just thinking of the cases where the senior District Judge and District Judge Zali have said the advantage of putting it all in writing is that you can be more focussed in your closing submissions and I hope that will help, but we would not want to lose the opportunity to at least address you orally at the end.

JUDGE BARAITSER: No, of course, but of course, I take account of the fact that you have already submitted 200 pages by way of opening and the prosecution has submitted nearly 100 pages by way of opening and therefore, a significant amount of the detail of the argument has already been written down and submitted to me.

MR FITZGERALD: My Lady, that is true, but that was before the evidence and yes, so, my Lady, what I would invite you to do is if you could hear us on this, let us say on Friday or Monday when we have all collected our thoughts a little bit more.

JUDGE BARAITSER: Yes, I am happy to do that. 12 noon then tomorrow, please, everyone. Thank you. Mr Assange, you remain custody overnight as before to be produced tomorrow morning for a 12 noon start. Thank you.

ADJOURNED AT 16.07 UNTIL THURSDAY, 24th SEPTEMBER 2020

We hereby certify that the above is an accurate and complete record of the proceedings or part thereof.