

TRANSCRIPT OF PROCEEDINGS

Ref. U20200010

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

1st OCTOBER 2020, 10.00-

1 JUDGE BARAITSER: Good morning. I appreciate Mr Assange is not yet in the dock but I
2 understand you are going to be asking for more time?

3 MR FITZGERALD: Yes.

4 JUDGE BARAITSER: I thought I had better come into court just to hear what you have to
5 say.

6 MR FITZGERALD: Yes, my Lady, I am going to leave it to my learned friend, Mr
7 Summers, but progress is being made.

8 JUDGE BARAITSER: Thank you. And you are content to have this ---

9 MR SUMMERS: Yes, yes, madam, we are.

10 JUDGE BARAITSER: --- conversation in the absence of your client?

11 MR SUMMERS: So, madam, we are on the last leg. There are as we see it four things that
12 need to be done today. The Peirce statement is in the process of being edited. That is
13 discussion and negotiation that has been going on overnight and continues this morning. As
14 Mr Fitzgerald put it, the ship is approaching the shore but it is yet to berth and we are hopeful
15 and desirous, madam, of a little time to secure the ropes.

16 JUDGE BARAITSER: And just pause, here comes your client.

17 MR SUMMERS: Sorry?

18 JUDGE BARAITSER: Here comes your client. Sit down, Mr Assange, we just began this
19 conversation because your lawyers are going to ask for time just to finish off their
20 negotiations. So, we started in your absence with the agreement of your lawyer. Yes.

21 MR SUMMERS: Madam, I mentioned Mrs Peirce's five statements.

22 JUDGE BARAITSER: Yes.

23 MR SUMMERS: We are working through those with some degree of success. Mr Tigar's
24 statement requires further discussion. There is also, madam, in the pipeline, I have already
25 mentioned the short update on the Spanish proceedings that has been prepared and needs to
26 be served and reviewed and, madam, I think we have also mentioned previously there will be
27 during the course of today a further short statement that puts into evidentiary form the
28 submission eight on the new changes to the indictment and the issues that surround that in
29 order to make the points that we made in closing within the confines of the questions posed
30 by the statutory scheme as per your ruling, madam. So, madam, those are the tasks that are
31 being worked through outside of court. We are all hopeful that they will be completed during
32 the course of the day and madam, can we just please ask for your patience whilst we work
33 through them?

1 JUDGE BARAITSER: You can. The only issue of those that you raise is Mr Tigar because
2 if discussions are fruitless then he will need to be called to give evidence.

3 MR SUMMERS: Yes, we do not anticipate that happening.

4 JUDGE BARAITSER: I see. All right. Thank you. And how long is it that you are asking
5 for?

6 MR SUMMERS: Well, madam, can we leave it open-ended in the first instance and invite
7 you into court when we are in a position to offer progress to you?

8 JUDGE BARAITSER: The only difficulty that causes is the uncertainty amongst those who
9 are watching proceedings. Shall we have an 11.30 return ---

10 MR SUMMERS: So be it.

11 JUDGE BARAITSER: --- and you can update me ---

12 MR SUMMERS: So be it.

13 JUDGE BARAITSER: --- on the progress? 11.30 it is. Thank you very much indeed.

14 MR SUMMERS: Madam, whilst I recall it, the issue of access to the transcript ---

15 JUDGE BARAITSER: Yes.

16 MR SUMMERS: --- we had last night fruitful discussion with those who watch these
17 proceedings from the adjoining court, and what transpires to be the case is that the request
18 has not come from the associative press or indeed anybody in the next door court, but it has
19 come from a sole journalist observing these proceedings from Australia. Madam, that being
20 the case, it is not our intention to make public the transcripts. They are our property and we
21 do not intend to move forward with that request.

22 JUDGE BARAITSER: All right. Well, my initial view is that that transcription and the
23 recording had been arranged entirely by the parties at their own expense. It is for them to
24 decide what use they make of it. They do not rely on the transcript in these proceedings and
25 as a matter of courtesy they have made it available to the court for its use. In my view, if a
26 member of the press considers they are entitled to access to that transcript they must identify
27 the basis for this. As matters stand I see no reason to order disclosure. They remain private
28 documents ---

29 MR SUMMERS: Thank you, madam.

30 JUDGE BARAITSER: --- of the parties. Thank you very much. So, I hope the journalist
31 who has requested this has heard that observation and if they wish to pursue it they know
32 how to do so.

33 MR SUMMERS: Thank you.

34 JUDGE BARAITSER: 11.30 then for everyone else.

1 (Short adjournment)

2 JUDGE BARAITSER: Now, I have asked your client not to be brought up ---

3 MR SUMMERS: Thank you, madam.

4 JUDGE BARAITSER: --- in case you are going to ask for more time.

5 MR SUMMERS: I am, madam.

6 JUDGE BARAITSER: What is the current position?

7 MR SUMMERS: Madam, I can promise you, and I know I say this frequently, but progress
8 is being made. The Tigar edits have been agreed and when we come to deal with the
9 evidence that is in place. The Peirce edits have been agreed in principle but Mr Fitzgerald is
10 now down with the client discussing them. There has been further progress made. It is
11 perhaps not necessary to go into it, but, madam, we do anticipate being in a position to
12 finalise all the evidence in this case probably at 2 o'clock, with, madam, your leave.

13 JUDGE BARAITSER: All right. I received the up-to-date position regarding the Spanish
14 proceedings.

15 MR SUMMERS: Yes.

16 JUDGE BARAITSER: Was that by agreement?

17 MR SUMMERS: No. Well, not yet.

18 JUDGE BARAITSER: I see.

19 MR SUMMERS: But that is so you know, madam, is Mr Martinez's chronology of where
20 things have moved on. It is designed to be neutral. I know my learned friends wish to check
21 it.

22 JUDGE BARAITSER: Yes.

23 MR SUMMERS: If it requires editing, it will be edited.

24 JUDGE BARAITSER: All right. 2 o'clock. Anything else you want to say, Mr Lewis
25 before I rise until 2 o'clock?

26 MR LEWIS: No, my Lady, but we are making progress and it is fully anticipated we will
27 finish the evidential hearing today.

28 JUDGE BARAITSER: Thank you. That is very helpful. Thank you. 2 o'clock then, please.

29 (Luncheon adjournment)

30 JUDGE BARAITSER: Mr Summers, what is the good news?

31 MR SUMMERS: The good news is that we are very nearly there, that we have been working
32 hard and we hope, madam, that in half an hour we will be able to present the remainder of the
33 evidence in agreed format in this case.

1 JUDGE BARAITSER: Rather than me come in and out, 30 minutes you think is a realistic
2 estimate?

3 MR SUMMERS: I do.

4 JUDGE BARAITSER: All right.

5 MR LEWIS: My Lady, there are a couple of things. We have been doing our best to be
6 accommodating today, but, quite frankly, it has become almost intolerable that we have had
7 four new statements today, two of which we have dealt with and tried to accommodate. At 2
8 o'clock this afternoon, just three minutes before walking into court, I am served with two
9 new statements. We are not going to agree them. We are not even going to attempt to agree
10 them. We object. Unless my learned friend can persuade you that at this 59th minute of the
11 11th hour new evidence should be admitted, it is just going to waste our time trying to agree
12 anything.

13 JUDGE BARAITSER: All right. Well, I have not seen the new evidence. I was not aware
14 there was any, so perhaps someone can sent me or hand me up some statements?

15 MR LEWIS: There is one from Bridget Prince and another one from Gareth Peirce.

16 MR SUMMERS: I had not understood that that was the position that was seriously being
17 taken. Mrs Peirce's statement was served on the CPS before 1 o'clock. I cannot explain why
18 it has not come to Mr Lewis until just now. Mrs Prince just produces, for example, the
19 Frontline Club transcript that Mr Lewis himself put into evidence. I do not anticipate that on
20 mature reflection that these are going to be properly objectionable, but perhaps we can take
21 30 minutes and ---

22 JUDGE BARAITSER: So this conversation is happening in the absence of your client.

23 MR SUMMERS: Yes.

24 JUDGE BARAITSER: I am conscious of that. Secondly, I have not seen any new evidence
25 at all and therefore clearly I cannot adjudicate.

26 MR SUMMERS: No, and I do not invite you to at this stage.

27 JUDGE BARAITSER: Or, in fact, comment one way or the other.

28 MR SUMMERS: Madam, that is purposeful. We are trying to keep you out of the arena. If
29 it is necessary to ask for your rulings on these, of course we will, but our hope and
30 anticipation is that I had anticipated within a half an hour, but perhaps it is lightly longer
31 now, we will be able to present you with the evidence that we have all been working on in
32 difficult circumstances.

33 JUDGE BARAITSER: I think if you have not, I think, by twenty to 3 you have not reached
34 agreement, I am going to have to start making some decisions on your behalf.

1 MR SUMMERS: Yes, of course.

2 JUDGE BARAITSER: I wonder if you can forward to me any new information that you
3 think I should be looking at in the adjournment period.

4 MR SUMMERS: Yes.

5 JUDGE BARAITSER: Can you do that electronically?

6 MR SUMMERS: Yes, I am sure we can.

7 JUDGE BARAITSER: Lovely. Twenty to 3. We will have your client up and we will have
8 to make some progress one way or the other then. Thank you very much.

9 (Short adjournment)

10 MR SUMMERS: Madam, we have made some progress. We are now in a position to read
11 an edited statement of Professor Tigar, tab 23. Can I hand you, please, a copy with the edits
12 marked?

13 JUDGE BARAITSER: Thank you very much.

14 MR SUMMERS: Madam, Professor Tigar hold professorships from, amongst other places,
15 UCLA. He has lectured at various law schools; he is the author of multiple books on criminal
16 law. His areas of academic focus, page 1, are constitutional law, criminal law, international
17 criminal law, national security, human rights, judicial review, legal history. He practises in
18 the areas in which he holds academic credentials. He has acted for defendants over the years
19 in freedom of expression cases and espionage cases, and cases perhaps closer to home in
20 relation to the Caicos Islands and Pinochet.

21 He had a prior career as a journalist and, as you will later see in his statement, he
22 was a member of the Washington Post team that engaged in exposing the Watergate scandal.

23 Madam, in the first paragraph, page 1, he says that he has been asked to provide an
24 overview of the history and application of the Espionage Act, the indictment of a publisher
25 and its implications for a free press and freedom of speech.

26 Madam, pages 3 to 4 provide a historical overview of whistle-blowing and
27 journalism. He observes that whistle-blower's disclosures can operate to prevent injustice
28 (middle of page 3). On the last paragraph on page 3, typically he observes the whistle-blower
29 does not make a career out of exposing wrongdoing, however journalists do, and there are
30 journalists who specialise in uncovering and reporting wrongful, questionable or
31 controversial government and corporate conduct. The work of these journalists, Madam, he
32 says, "is essential to achieving important social reforms".

33 He gives examples over the page, Bob Woodward, Carl Bernstein and their
34 revelations about the Nixon administration and the Watergate scandal altered the course of

1 history, took great courage and was done in the face of threats from the Nixon administration
2 against the Washington Post for whom, at that time, he was working as a member. He also
3 holds up Seymour Hersh as another well-known example of a journalist whose work has
4 relied on confidential sources.

5 Madam, the next chapter deals with journalists and their categorisation in this case.
6 He observes at the foot of page 4 that the word “journalistic” by the prosecution in their
7 opening note in this case. At the top of page 5 he observes that it does not appear in the
8 indictment. The indictment instead describes WikiLeaks as “an intelligence agency of the
9 people” and the owner of a drop-box and avoids descriptions of “journalism, journalist and
10 news agencies”. He observes that with the advent of the internet things have changed in the
11 world of journalism, and drop-boxes are widely used. They are a feature of 21st Century
12 journalism, and he explains with “secure drop”, about which you already heard, from,
13 amongst others, Mr Tim and its prevalence amongst responsible journalists.

14 He observes in the middle of that paragraph “guidance as to areas of potential
15 interest, that is interest to journalists, whether general or specific, is an act of an editor who
16 knows what is news-worthy, as his assistance with passwords, usernames, and how to
17 transmit information safely. It is what news agencies and journalists do.”

18 He gives the NBC news as an example of one that provides instructions and advice
19 to would-be whistle-blowers, including on how to identify a secure browser, where to
20 download; and they receive from NBC a code name and URL to send and receive messages
21 from the reporter. “News organisations commonly issue detailed instructions like this on
22 how to provide them with information”. He gives another example of ABC News in
23 Australia doing precisely the same.

24 Madam, over the page on page 6: “To such people we owe a great deal.” He gives
25 the example of Émile Zola who, more than a century ago, “turned from novelist SAS to
26 muckraking reportage in the cause of Captain Dreyfus and, as such, began a liberalisation
27 front.”

28 Madam, pages 7 to 9 deal with what he calls the “many forms of journalism”. The
29 “history of journalism” he reminds us “includes many forms, from broadsheets to handbills
30 and similar printed matter”. He provides some history of handbilling and observes at the foot
31 of page 7 that “the liberty is not confined to newspapers and periodicals”.

32 Madam, on pages 8 and 9 he speaks about the ethical and historical significance of
33 some of the materials disclosed by WikiLeaks. Subparagraph 1, by way of example, the
34 Guantanamo detainee assessment briefs and there information on the operation of the

1 Guantanamo detention facility and then, subparagraph 2 on page 9, madam, a second
2 example would be the rules of engagement.

3 These are rules, he said, designed to forestall the commission of war crimes such as
4 targeting civilian populations and crimes against humanity.

5 Madam, at page 10, he deals with what he calls over-classification. Having
6 previously set out, by way of introduction, the issue on classification, he summarises here
7 issues which or points which he makes. Firstly, the classified status of information revealed
8 by a defendant in a case of this kind has been held relevant and may be admitted in evidence
9 and argued by the prosecution in support of a finding of guilt.

10 Secondly, the classified status of a document generally appears on the document itself
11 and the prosecution argues that the defendant must therefore have had a greater degree of
12 aware. The document's character that supports a finding that he possessed *mens rea* and
13 thirdly, US law provides that the accused may not challenge in court the classified status of
14 documents and information.

15 And then, finally, madam, what he provides by way of historical commentary
16 information about what happened in the Ellsberg prosecution about which you have already
17 heard a little information, so following the Pentagon Papers case in the Supreme Court, the
18 Nixon administration prosecuted Ellsberg and his colleague, Anthony Russo, for espionage
19 ...” You will recall, madam, that Ellsberg, of course, was a whistle blower and not a
20 publisher, “and for other offences in relation to the releasing of the papers and he recalls what
21 happened next.

22 Agents of the US government, seeking to support this prosecution, did as follows; (1)
23 burglarised Ellsberg's psychiatrist's office seeking his medical file, using some of the same
24 personnel later to be implicated in the Watergate burglary; (2) conducted illegal wire taps of
25 persons connected with the case; (3) claims to have lost the wire taps so they could not be
26 produced in court and have their legality tested, and (4) attempted to influence the trial judge
27 by offering him a position as an FBI director, the result of which, madam, was in 1973, May
28 the 11th, Judge Byrne dismissed the prosecution writing that it offended the sentence of
29 justice.

30 Madam, that is all that we need to read, please, from Professor Tigar's evidence. His
31 evidence touched on other issues, but they are already in evidence before you.

32 JUDGE BARAITSER: Thank you.

1 MR SUMMERS: Madam, next to be summarised to you are the six statements of Mrs Peirce
2 and I hope they are ready for you as I know there were photocopying issues surrounding the
3 provision of ...

4 MS IVESON: Madam, I understand what has happened is that we have the master there.
5 That has been scanned. One of the CPS lawyers have very kindly gone to run off copies for
6 the court.

7 JUDGE BARAITSER: Alright, well, you can summarise it and then hand in the edited
8 version in due course.

9 MS IVESON: Thank you, madam.

10 MR FITZGERALD: My Lady, then, the first statement, can I just gist it because it obviously
11 will be available to the press if necessary? This is the first statement of Gareth Peirce dated
12 the 18th of October 2019. This sets out, by way of background, my Lady, the whole history
13 of proceedings from when Mr Assange took refuge inside the Ecuadorian Embassy. It deals
14 with the note verbal issued by Ecuador agreeing to grant him asylum status, having
15 concluded that his safety was endangered by potential extradition.

16 It sets out the subject matter under investigation in the Spanish courts and the whole
17 history that the court has heard by way of direct evidence. This is in your core bundle, tab 1,
18 my Lady, but then there has been no editing of this, so basically, it sets out that history. It
19 sets out the history of Mr Isaac Minoso's statement. It sets out the evidence from UC Global
20 and the enquiries that were then made by the Spanish investigating judge and one can see set
21 out there UC Global obtaining a significant contract personally managed by David Morales
22 with the company Las Vegas Sands at paragraph 15, owned by an American magnet, Sheldon
23 Adelson, publicly known to have a close friendship with the President of the United States,
24 Donald Trump.

25 One sees at paragraph 16, the former workers have explained that as a result of a
26 parallel agreement between David Morales and the US authorities, are not known to the
27 Ecuadorian government commissioning the security contract. Morales began to make
28 frequent journeys to the United States, mainly to New York, and you will see the references
29 that we have already heard of, "Our friends, the Americans," and that that the information
30 taken from the embassy was taken to the United States.

31 One sees there that once President Trump was elected and his administration came
32 into power, UC Global expanded its internal surveillance to increase the obtaining of
33 information of cameras that recorded sound and the photographing and copying of devices

1 required to be left as a security measure at the desk of the embassy by visitors whilst they
2 were visiting Mr Assange.

3 JUDGE BARAITSER: Is there any point in repeating through this witness evidence which I
4 have heard?

5 MR FITZGERALD: No, my Lady. You have it all set out there. It is, I hope, useful because
6 it is a continuous chronology of matters of which you have primary evidence and it sets them
7 all in context, but that is the purpose of that.

8 Then the second statement, my Lady, has been edited such that paragraph 3, with the
9 exception of the last sentence, has been edited, but the grant of asylum at the end of
10 paragraph 3 is contained, but I will be receiving the edited version of that, my Lady, and
11 paragraph 9 has also been edited, but you can see that the history of the legally privileged
12 material had been seized from the embassy. My Lady, this is tab 21. I am sure you have it.

13 And the seizure of that material, the UN's special rapporteur in privacy having
14 previously made a request to visit Mr Assange, wrote to the Ecuadorian authorities requesting
15 to be present to monitor the requested seizure of property, but was refused by Ecuador, and
16 then you see that eventually the Australian consulate was informed on the 20th of May that a
17 judicial request had been received from Mr Assange's property to be transferred to Ecuador,
18 and then you will see that Mrs Peirce's firm was at some time thereafter invited to make
19 arrangements to collect the remaining possessions.

20 Upon collection of those possessions, all legally privileged material was missing save
21 for two volumes of Supreme Court documents and a number of papers of loose
22 correspondence and you can see that, the photographs of his possessions, were released and
23 they show specific files of materials clearly labelled "legally privileged" had been seized.

24 Paragraph 9 is omitted. Paragraph 10, "In the absence of any response or information
25 in the UK, Mr Assange's lawyer in Ecuador applied for information access to all the material
26 taken to Ecuador in order to identify, ensure safe preservation and retrieval and then it deals
27 with the attempts made by Carlos Poveda in Ecuador to obtain the return of the legally
28 privileged material that had been seized from the embassy."

29 My Lady, paragraph 11, the third sentence is deleted but apart from that it all stands.
30 And one can see set out there the history of Mr Poveda who attended last to inspect the files
31 on 16 December, notes were allowed to be made, and, my Lady, Gareth Peirce advised that
32 the file records include the following, and then one sees a series of materials set out there.
33 The file notes contained a list of Ecuadorian civil servants and we have been made aware that

1 security guards employed by Promsecurity went in and out of the relevant rooms from the
2 outset.

3 And then an individual went in and out of the relevant rooms to make an inventory
4 but no inventory is noted into any system seen by Mr Assange, his lawyers in Ecuador,
5 although rooms were purportedly sealed, Embassy staff who were not permitted to return for
6 approximately one week saw the original seals had been replaced, the re-seals being marked
7 for judicial purpose. Highly unusually, two diplomatic pouches were taken in person to
8 Quito from the Embassy containing USB sticks, one by Jose Luis, an employee of the
9 Ecuadorian Intelligence, and second by Pablo Roldan shortly after Mr Assange's arrest.

10 And then you can see (iv) is deleted but (v) you can see that on 16 December 2019,
11 Mr Poveda whilst inspecting the remaining contents of the files in Ecuador and being
12 informed that Ecuador would retain nothing, including lists of the requests, and being
13 informed all would go to the USA.

14 MR LEWIS: This was edited out.

15 MR FITZGERALD: No.

16 MR LEWIS: All right.

17 MR FITZGERALD: No, this has come back from the CPS.

18 MR LEWIS: All right.

19 MR FITZGERALD: The one thing that was written in was the Ecuadorian prosecutor
20 refused that request. My Lady, then we have paragraph (vi). There is directions as to the
21 preservation of evidence and then on the 7th, the Ecuadorian prosecutor formally made
22 contact with the Ecuadorian judicial system to request authorisation for the prosecutor to
23 access the premises and seize evidence and you have the history set out there.

24 Paragraph 13, I am informed that a separate criminal investigation in Spain relating to
25 associates and employees of a successor security firm has been formally opened before
26 Madrid ---

27 JUDGE BARAITSER: Again, this is out of date information from 14 January. Matters have
28 clearly moved on.

29 MR FITZGERALD: Yes. And the passages, this is another enquiry altogether, I can tell
30 your Ladyship that the sentence beginning, "The criminal complaint ..." is deleted, and the
31 following sentence, but there are photographs taken of the page of Mr Martinez's legal file
32 whilst he and Mr Assange had left the room for a private consultation. And that is produced
33 as exhibit 5 indicating the photographing of materials shown in the private consultation.

1 My Lady, so those matters are all the subject of the materials that you have at core
2 bundle tab 21. Then there is a short statement of 17 January 2020 which is the third
3 statement which really produces the materials in bundle M. My Lady, you know you have
4 that core bundle M which is the evidence of Mr Julian Assange's political opinions, his
5 statements on matters of political importance, and of his political philosophy, and we have
6 boiled down the extensive volumes M1, 2, and 3, into what is called a core bundle M. But
7 that is all exhibited by Gareth Peirce.

8 Then, my Lady, the fourth statement I can indicate that that is set out. It deals with
9 questions of the indictment and the supporting prosecution at paragraph 4. Yes, that is tab
10 36, my Lady.

11 JUDGE BARAITSER: 36?

12 MR FITZGERALD: Tab 36.

13 JUDGE BARAITSER: Thank you very much indeed.

14 MR FITZGERALD: And it deals with the difficulties of reconstructing matters at paragraph
15 4, with the death at paragraph 6 of a number of significant legal advisers of Mr Assange
16 including Michael Ratner and John Jones of Queen's Counsel, and lastly Gavin MacFadyen.
17 It deals with the difficulties of reconstructing what is necessary for Mr Assange's effective
18 challenge to the extradition proceedings at paragraph 7. It deals at paragraph 8 with the
19 enormity of the enterprise that was maintained in the growing spread of information, sharing
20 with media partners worldwide over a period of more than a year, and the difficulties of that.

21 My Lady, paragraph 9, there Gareth Peirce refers to the information that is available
22 in the public domain and provides links to that information. And, my Lady, there is a
23 deletion of relevance to potential defence at paragraph 10 but the archive material is no
24 longer available to be accessed by him or his lawyers. You will have the edited version, my
25 Lady, but paragraph 10, if you take out the words from "of" to "defence", those six words,
26 that is the deletion which is agreed.

27 And then we have the fact that some fragments of evidence accidentally remain, the
28 transcript of one such is attached at annex 2 to the statement derived from an internal
29 WikiLeaks' video log of 25 August 2011, the extract from the internal log having been
30 retained separately by an external film maker. So, that deals of the fragmentary evidence that
31 remains, what there is.

32 And then, if I can invite you to delete paragraph 14, you will be getting a marked-up
33 version. To delete the first 10 words in paragraph 15 and to start, "In relation to the
34 prosecutor's claims, risk of harm, ...", those claims have now been hugely amplified and then

1 it relates to the task of dealing with those and you see that at paragraph 16 where it is set out
2 and the difficulties of tracing specific individuals.

3 My Lady, the sentence beginning, “The possibility” and ending, “earlier” is deleted.
4 And in the last paragraph, the sentence ending in, “2010 or 2011”, that is where it ends. And
5 by agreement the words “from must” to “reconstructed” have been deleted.

6 My Lady, paragraph 17, there is deletion up to the words “following” and “following
7 receipt of the superseding indictment last year and in attempting to investigate two of the
8 instances of individuals allegedly placed in danger, I through accident to a context learned of
9 one individual who at the time of the release of information understood the reference to be to
10 himself. He was and is clearly not at the risk described.”. And then paragraphs 18, 19, and
11 20 are deleted. And the paragraphs 21 to 23 are retained.

12 My Lady, then the fifth statement which is at tab 44, I am obliged, the fifth statement
13 is maintained in its entirety save for paragraph 13 is deleted. And so, this sets out the whole
14 history of the domestic proceedings from October 2017 onwards and one sees reference at
15 paragraph 14, “During this period I was conducting legal meetings with Mr Assange at the
16 Embassy and on occasions so too was his Spanish lawyer, Mr Martinez, meeting him in
17 parallel. I was aware that Mr Assange was meeting with the Ecuadorian Consul in respect of
18 the grant of diplomatic status. I was informed the UK authorities would be notified of the
19 grant, of diplomatic status, and have had it confirmed subsequently by the Ecuadorian Consul
20 that this occurred.”.

21 Then one has the passage about the surveyance and intrusion into legally privileged
22 meetings from paragraph 15 onwards. “In May of last year I was informed by the law firm of
23 Baltasar Garzon that evidence from first one and then a second witness in Spain, both of
24 whom I and a colleague, Mr Lyons, subsequently interviewed ...”, my Lady, that deals with
25 witness 1 and witness 2 who you have heard the evidence of read out and you have seen the
26 material”, ... and saw that my legal meetings with Mr Assange in the Embassy in December
27 and January of 2017 and 2018 were the subject of surveillance and that records of those
28 meetings were provided. The witness stated to US intelligence by Mr Morales.”. So, that is
29 her own meetings being surveilled and details of them being sent to the US Intelligence. “The
30 records included surveillance conducted on the 6th - 19 December of 2017 and 14 January
31 2018 when I attended the embassy for legal meetings. I was wholly unaware of that
32 surveillance, although I was aware that Mr Assange maintained suspicions throughout that
33 period fearing intrusion. I do not comment here upon my own reactions to the discovery but
34 comment only generally that there has prevailed as a consequence an exceptionally high level

1 of anxiety and fear that legal interviews with Mr Assange are continuing to be monitored.” It
2 should finish there with the word “monitored.”

3 “This fear triggered by the clear evidence that it had been taking place over a number
4 of years has had a chilling effect upon preparation for these extradition proceedings. The
5 further evidence that Mr Assange’s senior Spanish lawyer, Baltasar Garzon, was not only
6 followed and photographed but his office the subject of a burglary after discussion reported
7 by one of the Spanish witnesses of such an eventuality continues to affect the confidence of
8 Mr Assange’s lawyers as a whole as to the confidentiality of their work on his case.”

9 And then she refers back to the history of the seizure of his legally privileged material
10 and of the failure to have any explanation as to its whereabouts or potential return. She refers
11 to the fact that the affidavit of Mr Kromberg states only that any such material would be the
12 subject of a (inaudible) excision from the prosecution of any future trial in the USA.
13 However, no suggestions have been made for the return of that material by the DOJ in these
14 proceedings, even though attention has been drawn to the existence of recordings of meetings
15 that could play an evidential part in the extradition hearing, nor has any reassurance been
16 given that the ongoing representation of Mr Assange is not being and will not be the subject
17 of lawful intrusion by US agencies.” My Lady, it should stop there. The last sentence is
18 irrelevant.

19 Paragraph 17, it is just the first sentence. Basically, because there was selective
20 quotation from The New York Times magazine article, we have provided the court with the
21 full article, but, my Lady, the comments after the first two sentences are by agreement
22 deleted. They are matters for us as counsel to address the court on.

23 And then the final matter is at paragraph 19. “Evidence relevant to the context of the
24 separate quotation cited from The Guardian is referred to in my second statement.” And you
25 have the full article, my Lady, exhibited there and obviously that will be the subject of
26 closing submissions in due course.

27 Then finally, there were some statements simply producing materials which did not
28 need to be the subject of debate, and I think there was one that was a sixth statement which
29 was in the bail proceedings, my Lady, so you will have had that before you in any event in
30 these proceedings. Seventh statement dated 17 July 2020 of Gareth Peirce is at tab 74 and,
31 “This is my seventh statement in proceedings relating to the extradition request by the USA
32 for Julian Assange whom I represent. Exhibited to this statement are volumes of publicly
33 available information that relate to a number of issues raised by Mr Assange in his challenge
34 to the extradition request. They are produced to respond to issues raised in the declarations

1 of Gordon Kromberg and/or to questions raised during the preliminary hearing of this case in
2 February 2020.

3 “I make it clear the material here we have served in each of the categories below is
4 made available to provide an understanding of the breadth of potential evidence. It is already
5 in the public domain. A limited number of examples from the materials served here will be
6 relied upon by the defence. As, however, these examples will be drawn from a far larger
7 body of material, it has been considered appropriate to provide an indication of that which is
8 available. It is hoped that produced for that purpose it is done so in a format that will make it
9 easier for those who wish to access that larger body to be able to do so.” And then it is, “The
10 online publications of leaks, secure submission systems at other leak sites and requests for
11 documents.” And then again you have the reference to the “in continuation of volumes M1 to
12 M3, examples of the political opinions held by Mr Assange and related commentary and
13 volume P, examples of news stories based upon the different publications by WikiLeaks.”

14 My Lady, the other matters which have been excised, my learned friend and I have
15 agreed, are matters for legal submissions by counsel rather than comment by my learned
16 instructing solicitor, and that is the basis on which we have agreed that those comments are
17 better made by myself in legal argument.

18 And so, my Lady, those are the five key statements of Gareth Peirce. As I say, there
19 is one in the bail proceedings which is already before the court, but we do respectfully rely on
20 those in support of all our submissions, including the political motivation, the abuse of power
21 and also in relation to the fears as to what will occur if he is extradited to the United States.

22 My Lady, those are the materials which, after a process of an exhaustive consultation,
23 the CPS are going to provide you with the final agreed version, but I hope I have faithfully
24 indicated all that has been excised and all that remains.

25 JUDGE BARAITSER: Thank you.

26 MR SUMMERS: The next statement is agreed. It is the fourth statement of Mr Martinez.
27 You do not have it. Can I invite you, I think we are up to tab 83, if Mr Guedalla’s first
28 statement was tab 82.

29 JUDGE BARAITSER: So this is by agreement.

30 MR SUMMERS: Yes. There is editing, madam.

31 JUDGE BARAITSER: Yes.

32 MR SUMMERS: That you will see, but yes. So this is the statement we promised bringing
33 you up to speed, madam, with the status of the Spanish investigation. Paragraph 3, Mr
34 Martinez says, “This is an update on the current situation with the proceedings in Spain”, and

1 he attaches a chronology. I am not sure, madam, that there is any purpose to be served in
2 going into detail of the chronology, save to observe that the Spanish court's investigation into
3 the US involvement in that affair is ongoing and active. They are investigating, for example,
4 madam, the IP addresses that had accessed the UC Global server. You see that, for example,
5 on 17 September. The purpose of putting this before you, madam, is to alert you essentially
6 that there may at some point be judicial findings emanating from Spain that may be of some
7 relevance to you and to remind you that these proceedings remain extant and ongoing.

8 JUDGE BARAITSER: Thank you.

9 MR SUMMERS: Madam, the next three statements are less easy and I think may require
10 rulings from you. Can I deal with them in turn?

11 JUDGE BARAITSER: Please.

12 MR SUMMERS: The first, please, is an additional statement from Mrs Peirce.

13 JUDGE BARAITSER: Now, do I have that?

14 MR SUMMERS: You do not. With apologies for it not being hole punched. If you admit it,
15 madam, it would go in tab 84. It deals, madam, with the difficulties that the defence have
16 encountered in investigating the fresh allegations in the third declaration ---

17 JUDGE BARAITSER: I am going to ask you to stop and deal with the other two statements
18 which I have read. This I have never read and I think I need to read it before I hear your
19 submissions on it.

20 MR SUMMERS: So be it, madam. The other two statements being Prince and Guedalla?

21 JUDGE BARAITSER: No. Guedalla I think was agreed and I have already received that.

22 MR LEWIS: No, no, all these three. My Lady, the ---

23 JUDGE BARAITSER: Prince I have and I have read.

24 MR SUMMERS: Yes.

25 MR LEWIS: You will not have read these because one was only served at 2.45 this
26 afternoon.

27 JUDGE BARAITSER: So I have been forwarded a copy of the fifth statement of Bridget
28 Prince. So that is one I have got.

29 MR SUMMERS: Yes.

30 MR LEWIS: I see. Thank you.

31 JUDGE BARAITSER: Anything else?

32 MR SUMMERS: There is a second statement from Mr Guedalla about which – I am sure I
33 am mispronouncing it, but that is the one that Mr Lewis is referring to. I do not know,
34 madam, whether that has reached you.

1 JUDGE BARAITSER: No.

2 MR SUMMERS: Can I ask then what ---

3 JUDGE BARAITSER: The only statement that has been forwarded ---

4 MR SUMMERS: Yes.

5 JUDGE BARAITSER: --- via Mr Todhunter is the fifth statement of Bridget Prince and the
6 three exhibits attached ---

7 MR SUMMERS: Thank you. Can I deal with that?

8 JUDGE BARAITSER: Yes.

9 MR SUMMERS: That is in Mrs Prince's fifth statement to which objection is taken.

10 JUDGE BARAITSER: Yes.

11 MR SUMMERS: Firstly, can I explain its contents and then on the back of that can I apply to
12 adduce it, and no doubt you will hear from Mr Lewis. It is a further statement from Mrs
13 Prince, dated today, exhibiting further materials. There are, in essence, two sets of materials
14 that she seeks to exhibit. The first, if admitted, would become Volume F 59, and it is the full
15 transcript of the Frontline Club speech that was introduced into evidence by Mr Lewis by
16 way of cross-examination of Dr Deeley.

17 As we understand it, it was introduced for one purpose in cross-examination of Dr
18 Deeley. Our concern is that the section taken and put to Dr Deeley, it is almost literally in the
19 middle of this long speech, could be the subject of submissions in due course. If that is right,
20 you would need to have access to the entire speech to put it into proper context. For that
21 reason, Madam, we have sought to place that before you in the event that it becomes relevant
22 for closing submissions to look at the aspect that was placed into evidence by Mr Lewis.

23 The second batch of materials that I would seek to place before you without
24 commentary, but simply so you have them, Madam, are materials pertaining to public
25 statements made by Attorney General Barr within the last few days, so whilst these
26 proceedings have been ongoing, and in the order that they be admitted into our proceedings.

27 JUDGE BARAITSER: 16 September?

28 MR FITZGERALD: Yes. They could be adduced before they were uttered by the Attorney
29 General. We will submit in due course some further light on the relationship between the US
30 Executive and the US Prosecutorial authorities and the influence that it has had by the one
31 over the other.

32 Madam, this arrives at the time it does, firstly, because the Frontline Club materials
33 were put in by the prosecution during these proceedings and, secondly, because the Attorney
34 General's statements have occurred during the course of these proceedings. By way of

1 ensuring that in due course the parties have access to the whole of the materials upon which
2 they would seek to address you, Madam, we seek to enter them into the record, as it were.

3 JUDGE BARAITSER: Mr Lewis:

4 MR LEWIS: Madam, we do object to the grounds. The three items, dealing with the first
5 item, which is in relation to the Frontline Club. My Lady will remember that we did not
6 adduce a transcript or any passages. We put to Dr Deeley that Mr Assange's ability to
7 answer questions, as shown in that video clip, was not consistent with the criteria in 2(a) of
8 the ICD-10 classification, being on the autism spectrum in relation to communications skills.
9 That was the purpose that it was adduced for. Adducing this has no purpose to deal with that.
10 In any event, you cannot simply adduce evidence because I cross-examined on it; it is not
11 possible under the laws of evidence for a party to simply adduce evidence it thinks may have
12 been cross-examined on.

13 Secondly, this whole transcript has been available since 2010 and, had it been in the
14 papers, I would no doubt have put parts of it to witnesses and it would have been dealt with
15 by witnesses, and now it is too late to do that.

16 Thirdly, Mr Puwia actually refers to this in his original affidavit in support of the
17 request where he points out about the Frontline Club. It has been in the forefront of
18 everyone's minds since the very beginning of these proceedings. It is just too late to try and
19 adduce this transcript now.

20 In relation to the William R material, it is not the last few days, as my Lady has
21 rightly observed, it is at least two weeks (16 September). It could and should have been
22 produced immediately so that I could have put any parts of it to witnesses; or obtained other
23 information because, if it is being put forward and we wished to deal with it in evidence, we
24 must be entitled the opportunity to deal with that if it has been adduced for the first time. My
25 learned friend cannot simply just put it in at the eleventh hour. In those circumstances, to try
26 and adduce a statement at 1 pm on what we believe is the last day of the hearing is simply too
27 late, and my Lady should simply refuse leave.

28 JUDGE BARAITSER: Thank you.

29 MR SUMMERS: Madam, by way of response, can I remind you, please, that so far as Dr
30 Deeley's evidence was concerned this extract that was put to him without notice and so the
31 notion that we could there and then have laid our hands on the proper context for it is perhaps
32 artificial.

33 Secondly, the particular passage that has been sought to be drawn out of this long
34 speech deals with, you know that, the protection of sources, and obviously that is no

1 coincidence. If the substantive content of that passage is to be relied on in any way in these
2 proceedings, it must be important, Madam, that you have proper context.

3 So far as the second batch of materials is concerned, if the complaint is that we ought
4 to have adduced it as soon as the prosecution’s own Attorney General said it, then so be it,
5 but the notion that it was not available to Mr Lewis to put to witnesses, had he wishes, is
6 again slightly artificial given that it is his own Attorney General’s words that we are dealing
7 with.

8 JUDGE BARAITSER: Once again, the defence seek to adduce new and additional evidence
9 outside the directions and, on this occasion, on the last day of a four-week hearing. Once
10 again the defence have not sought leave to vary directions for service of this evidence and it
11 comes as a complete surprise to the court and, it seems, to Mr Lewis too.

12 The first statement is from Bridget Prince and bears today’s date. She produces a
13 transcript of a meeting of the Frontline Club on 12 August 2010 of the discussion on the topic
14 “The Data Revolution – how WikiLeaks is changing journalism”. This meeting was video-
15 taped and a small fragment was shown to Dr Deeley. He was invited to conclude that Mr
16 Assange’s ability to communicate with the audience, as shown in the video, was inconsistent
17 with his diagnosis of Autistic Spectrum Disorder. Dr Deeley did not accept this proposition
18 and stated that what in fact the video showed was quite characteristic of at least some high
19 functioning people on the Autistic Spectrum. The video did not, it seems, undermine this part
20 of his evidence, and no further use of this video was made by the Government.

21 In my view, it is not the interests of justice to allow the transcript of the entire meeting
22 before the court. It is not necessary to do so to address a concession made by the expert
23 witness, as no concession was made.

24 Ms Prince also exhibits a speech from 16 September 2020 from Justice News headed
25 “Remarks by Attorney General William P Barr at Hillsdale College Constitution Day Event –
26 Washington”. I indicated earlier the need for finality in these proceedings. I expressed my
27 concern about the defence seeking to adduce additional evidence, for example in relation to
28 the United States election before judgment was handed down. I was assured by Mr
29 Fitzgerald that it would have to be something “dramatic” in his words. I am quite satisfied
30 that this speech does not amount to a dramatic event of the kind Mr Fitzgerald was referring
31 to.

32 On a cursory reading of it, it is a speech of the kind an attorney general makes as a
33 matter of routine and as part of his role. He makes no reference to Mr Assange or to the
34 decision to prosecute him for these allegations.

1 The evidence on these issues has been given over the past weeks and the opportunity
2 to test it has passed. In my view it is not in the interests of justice to allow evidence of this
3 nature to be adduced at this stage in these proceedings.

4 I hope the defence do not use the time I have given them in order to assist them fully
5 to prepare their closing submissions as an opportunity to seek to adduce evidence of this
6 nature. I have been assured by Mr Fitzgerald that they will not. The views of the
7 Washington Post journalists on the speech do not add value to its content, and the admission
8 of this newspaper article is also refused.

9 MR FITZGERALD: My Lady, the next statement is the statement of Daniel Guedalla.

10 JUDGE BARAITSER: Can I have a copy now? I need to have an opportunity read both
11 these statements.

12 MR FITZGERALD: Yes. My Lady, by all means. Can I just indicate and I hope helpfully
13 on this, item 2 on page 2, we do respectfully submit falls into a very special category because
14 it arises out of a point put, a leading question put, to the prosecution's own witness in re-
15 examination so we had no opportunity to correct it at the time. I immediately raised it
16 informally but we did not think that that was correct but of course we then had to check
17 whether it was correct and that is the fruits of – so (ii), I accept (i) may merely cross the T's
18 and dot the I's on a point that I know your Ladyship already got by giving you, but first of all,
19 may I respectfully submit you indicated ---

20 JUDGE BARAITSER: Before you make your submission, shall I just read the statements?

21 MR FITZGERALD: Sorry. I am so sorry.

22 JUDGE BARAITSER: I will retire to read both statements.

23 MR FITZGERALD: Yes, thank you, my Lady, I would be grateful.

24 JUDGE BARAITSER: Apart from the admission of these two statements, is there anything
25 else that is going to be dealt with in this case before it closes?

26 MR FITZGERALD: No, you obviously, madam, have asked repeatedly for draft notional
27 UK charges ---

28 JUDGE BARAITSER: Yes.

29 MR FITZGERALD: --- and we are going to ask that you make an order for provision of
30 those quickly because we need to have them before we can start our closing submissions.

31 JUDGE BARAITSER: So, just deal with some housekeeping then, how long will it take to
32 draft those charges?

33 MR LEWIS: Certainly by Monday morning, first thing Monday morning.

34 JUDGE BARAITSER: All right.

1 MR FITZGERALD: And there is – sorry ---
2 JUDGE BARAITSER: So, I am going to say close of business Monday since it is otherwise
3 a little vague. So, close of business on Monday.
4 MR LEWIS: Sorry, my lady.
5 JUDGE BARAITSER: If you provide those to the court and to the defence. Something else,
6 Mr Summers?
7 MR FITZGERALD: Yeah, there is – I am so sorry, I did not mean to say yeah – yes.
8 JUDGE BARAITSER: Yes.
9 MR FITZGERALD: There is an admission which my learned friend indicated that she might
10 well be disposed to make in relation to the statistics that were put on people convicted of
11 espionage subject to SAMs. If you recall, my learned friend put ---
12 JUDGE BARAITSER: Nine.
13 MR FITZGERALD: Nine, yes, and well, all we have done is to reduce what was put by my
14 learned friend to the witness to an admission which I think my learned friend has indicated –
15 yes?
16 JUDGE BARAITSER: It is admitted then there is no adjudication for me so you will put that
17 before me.
18 MR FITZGERALD: Yes.
19 JUDGE BARAITSER: Again, how are you going to do that?
20 MR FITZGERALD: Well, my learned friend has very kindly offered to do that.
21 MS IVESON: Yes, I can put it in submissions for my learned friend.
22 MR FITZGERALD: But it will be verbatim.
23 JUDGE BARAITSER: If you put it into an admission form and serve it by close of business
24 on Monday that should do.
25 MS IVESON: I am grateful.
26 JUDGE BARAITSER: Thank you. What else? There is this White Paper issue. When can
27 that be ---
28 MS DOBBIN: My Lady, I think that is with me. That is not available in any electronic
29 database so I need to go to the library to get a clean copy of it.
30 JUDGE BARAITSER: Can you ask in relation to your referring to it, was that from *Shayler*
31 or did you independently refer to it?
32 MS DOBBIN: No, I looked at the original draft ---
33 JUDGE BARAITSER: At the original. All right.
34 MS DOBBIN: --- of the papers.

1 JUDGE BARAITSER: Well, that is why I need to see it. And is there any difficulty? Are
2 you going to photocopy it? Is that allowed under the copyright provisions?

3 MS DOBBIN: Oh yes, it is fine. I just have to photocopy it from one of the Inns of Court
4 libraries, that is all.

5 JUDGE BARAITSER: I see. And how long will that take?

6 MS DOBBIN: May I also ask if we can have that to you by Monday as well?

7 JUDGE BARAITSER: Yes. So, close of business by Monday for the White Paper. What
8 else by way of housekeeping?

9 MR SUMMERS: Well, madam, I am slightly concerned that there is going to be a closed
10 universe of materials to which you will have regard and if that is right, alongside the White
11 Paper, you might wish to read the very recent Law Commission's report on protection of
12 official data and the operation of the Official Secrets Act, it was published in September.

13 JUDGE BARAITSER: Well, Mr Fitzgerald, they have very different status.

14 MR SUMMERS: Sorry?

15 JUDGE BARAITSER: The White Paper is explanatory information ---

16 MR SUMMERS: Yes.

17 JUDGE BARAITSER: --- relating to an Act but the Law Commission's are observations
18 which if they are adopted, well, then they have some status. But if they are not, well, then
19 they have a very different flavour to them.

20 MR SUMMERS: So be it, madam. It may be that we draw from the Law Commission's
21 analysis in closing submissions, it might not, but if you are interested in the subject then we
22 can direct you, madam, to the Law Commission's report.

23 JUDGE BARAITSER: All right. When you talk about a closed book I have had this
24 conversation already with Mr Fitzgerald and I have referred to it in my ruling in relation to
25 the admissibility of the last statement. It is not a closed book but Mr Fitzgerald as I have
26 indicated already has stated in open court that it would have to be something dramatic for you
27 to try and adduce further evidence after today.

28 MR SUMMERS: Madam, the reason I am on my feet is that it had not occurred to me before
29 the discussion that just happened that you would regard the Law Commission's report as
30 something that needed to be evidenced.

31 JUDGE BARAITSER: Well ---

32 MR SUMMERS: It is not evidence in the way that we understood your discussing with Mr
33 Fitzgerald, it is the Law Commission's report in the same way as the White Paper is the
34 White Paper.

1 JUDGE BARAITSER: Well, I have asked for the White Paper ---

2 MR SUMMERS: Yes.

3 JUDGE BARAITSER: --- because it was referred to both in the *Shayler* case but also in Mr
4 Lewis' amended opening note. That is why I have asked for it. I was not aware that there is
5 a Law Commission report but it does have a different status.

6 MR SUMMERS: Oh of course, madam. Of course.

7 JUDGE BARAITSER: So, that is all I would say about it.

8 MR FITZGERALD: And, madam, again, I do not want to be difficult but I totally agree that
9 I said that in relation to evidence that came in after the close of the hearing, I accepted that
10 that would have to be dramatic because you said if you are going to use this, if something
11 happens in the month when we talked about the election development, but I had not
12 understood that that applied while we are still in the hearing which is our position now.

13 JUDGE BARAITSER: Well, we remain in the hearing until judgment is handed down.

14 MR FITZGERALD: Well, I see ---

15 JUDGE BARAITSER: The evidence has been heard and concluded.

16 MR FITZGERALD: Well, my Lady, there is one further matter of evidence that I need you
17 to consider and I hope I will be able to give you a firm reply as to whether we have closed the
18 evidence very shortly, but there is one matter.

19 JUDGE BARAITSER: I hope Mr Lewis is aware of it?

20 MR FITZGERALD: Yes, he is, yes.

21 JUDGE BARAITSER: All right. Well, I will take some time to read these two documents.
22 No doubt you can have your discussion with Mr Lewis in relation to whether that is agreed.

23 MR FITZGERALD: Yes. Yes.

24 JUDGE BARAITSER: And I will be back ---

25 MR LEWIS: My Lady, they will not be agreed. I can just indicate that.

26 JUDGE BARAITSER: It will not be agreed? Well, if it is not going to be agreed and you do
27 intend to rely upon it then perhaps you can hand it to me now?

28 MR FITZGERALD: Well, it is something we discussed and was agreed. Can I just tell my
29 learned friend?

30 JUDGE BARAITSER: Right. Well, let me read these documents. All right. So, let me take
31 15 minutes or so to read this, back at five past 4 please, thank you.

32 (Short adjournment)

33 JUDGE BARAITSER: Thank you, please sit down. So, are you going to deal with both
34 statements?

1 MR FITZGERALD: Can I deal with the Guedalla statement, my Lady. My Lady, as I said,
2 the second part, (ii) on page 3, he says, “I note the reference in the transcript of Dr
3 Blackwood indicating his description of Dr Corson as in the very early stages of her clinical
4 career.” That arose, as I respectfully submitted, I think last Thursday in re-examination by
5 my learned friend where it was put, “So, she was in the very early stages of her clinical
6 career.”

7 JUDGE BARAITSER: Sorry, what are you referring to? Can you help me?

8 MR FITZGERALD: Okay. Dr Blackwood was asked by my learned friend ---

9 JUDGE BARAITSER: Sorry, I am looking at the statement of Daniel Guedalla.

10 MR FITZGERALD: Yes, it is (ii) on the last page.

11 JUDGE BARAITSER: Yes, thank you very much.

12 MR FITZGERALD: My Lady, do you see, “I note the reference from the transcript of Dr
13 Blackwood, indicating his description.” It is important that that was in answer to a question
14 put by my learned friend in re-examination, so it was not exactly something we could have
15 predicted at all and it was put to him that effectively, she was in the very early stages of her
16 clinical career.

17 In fact, she is the clinical leader in the psychological therapy service at two prisons,
18 HMP Belmarsh and Thameside and the supervisor of other staff in the psychology
19 department, so the statement that she is in the very early stages of her career which was put,
20 as I recollect, as a leading question to which she assented, we could have had no notice that
21 that was going to be put and it either gives a misleading impression or a totally incomplete
22 impression if, in fact, Dr Corson is the specialist forensic psychologist, the clinical lead in the
23 psychological therapy service at the two prisons and she is a supervisor other staff in the
24 psychology department does not – so, to suggest that she is just in the very early stages of her
25 clinical career does not seem consistent with that and we certainly would say that corrective.

26 I did immediately raise, informally, so that there is no suggestion to the contrary, that
27 that did not accord with our understanding which was that she was a senior psychologist with
28 my learned friend afterwards, but obviously, we did not have that in a form in which we
29 could put it to the court, and in any event, because it arose in re-examination, I did not have
30 any status in which to query that.

31 JUDGE BARAITSER: Mr Fitzgerald, I wonder if this cannot be done by way of admission.
32 Dr Corson’s credentials are easily ascertainable.

33 MR FITZGERALD: Yes.

1 JUDGE BARAITSER: And I wonder if perhaps you and Mr Lewis can just agree what they
2 are by way of the admissions at the end of Monday, agree on that. It cannot be a contentious
3 point.

4 MR FITZGERALD: Well, I hope not, no. Then, in that case, I am certainly content with
5 that.

6 JUDGE BARAITSER: Mr Lewis, are you happy with that?

7 MR LEWIS: I think that is absolutely fine.

8 JUDGE BARAITSER: What about the second point in the statement?

9 MR FITZGERALD: So, basically, can I just lay this foundation, my Lady? I think you
10 indicated that you were fully aware that there was a difference between dismissed and not
11 proceeded with because I think when you looked at paragraph 19 of his statement which you
12 admitted you said yes it was not proceeded with, but I think at various stages, it has been said
13 that it was dismissed. What Mr Guedalla does is to indicate that there are a variety of reasons
14 why a thing would not be proceeded with which are nothing to do with that it is not believed
15 that he had the razor blade, but simply through lapse of time, it was not proceeded with, so ---

16 JUDGE BARAITSER: But Mr Fitzgerald, in this case, we are fortunate in having the
17 governor's exact reasons why he did not proceed with it. We know black and white so there
18 is no need to guess at them, so this adds little or nothing.

19 MR FITZGERALD: My Lady, it is certainly not in the same category as the second point
20 and I know that your Ladyship did specifically say yes, it was not proceeded with due to
21 lapse of time.

22 JUDGE BARAITSER: Yes.

23 MR FITZGERALD: And therefore not discharged.

24 JUDGE BARAITSER: There is no need for this statement. It does not assist one way or the
25 other. We know what the governor said. I think the governor said the length of time elapsed
26 and natural justice compromised, so that is the reason.

27 MR FITZGERALD: Yes. My Lady, in those circumstances, I will not press (i) if I can put it
28 back, and (ii) we have agreed can be resolved by putting, in fairness to Dr Jane Corson, the
29 fullness of her qualifications before ---

30 JUDGE BARAITSER: So, I put the statement aside. It is not admitted on the basis that you
31 are going to agree the first bit.

32 MR FITZGERALD: My Lady, yes.

33 JUDGE BARAITSER: And that takes us to Mrs Peirce's statements.

1 MR SUMMERS: The eighth statement from Mrs Peirce, madam, evidences that which was
2 previously subject of submissions or assertion in submission 8, part 2 of the defence
3 submissions, paragraph 252 onwards and we visited that, madam, you will recall, on day 1
4 and based on the content of our submissions, we applied firstly for excision and then for
5 adjournment and, madam, you ruled that excision was premature. These issues ought to be
6 raised within the context of the statutory scheme and the statutory questions in due course.

7 Now, of course, that requires evidence and that is the purpose of this statement, to put
8 into evidential form, madam, that which we heard asserted in the submissions. I can take you
9 through the chronology, but the timing is short. The new indictment, madam, you know
10 arrived in June of this year, served on this court at the end of July with a fresh request for
11 extradition on 12th of August and we began on the 7th of September.

12 But the statement, in summary, madam, sets out some of the issues that would have
13 been raised by way of evidence, explored by way of evidence and potentially raised by way
14 of submissions if there had been more or sufficient time to respond to the fresh and different
15 allegations that are made in the new indictment, so, madam, this statement seeks to put into
16 evidential form that which was previously assertion.

17 We take the view that its admission flows from the ruling you made that these are
18 points that need to be made in the context of the statutory scheme and we seek to admit it on
19 that basis. Mr Lewis takes a slightly different view. As I understand it, he sees this as
20 dependent on a second failed application to adjourn being made. If that is the right view and
21 one with which you agree, then I do apply formally, madam, to adjourn again in the
22 anticipation that you will refuse for precisely the same reasons that you did before.

23 JUDGE BARAITSER: Just to understand that the last paragraph confirms that the statement
24 is there to inform the court that the defence is not in a position to present its full abuse
25 arguments. That is its purpose.

26 MR SUMMERS: Yes, madam. In summary, we will be submitting that in due course and
27 we will be submitting in the context of the statutory questions, when, for example, you come
28 to forum or abuse there would have been issues that we would have wished to address you on
29 had we had more notice of this fresh indictment, and we will then invite you to excise the
30 fresh allegations contained within the new indictment from your consideration of the case
31 based on that. In essence, madam, we will be making the submissions that we made to you
32 on day 1 in the appropriate forum, as you have ruled, but of course, to do so we need some
33 evidential basis rather than counsel's assertion, and that is the avowed purpose of his
34 statement.

1 JUDGE BARAITSER: Thank you.

2 MR LEWIS: My Lady, we say this evidence is obviously inadmissible. On 7 September, it
3 is page 39 of the transcript, my Lady gave unimpeachable reasons why the application for an
4 adjournment should be rejected. What you cannot do is then three weeks later try and put in
5 reasons to impeach the reasoning that my Lady gave back on 7 September. If this were to be,
6 as my learned friend puts the alternative, a subsequent application for an adjournment, he can
7 put in evidence to support that application. He cannot put in evidence ex post facto to
8 support a previous application on which he has lost. It is really an obvious matter, and that is
9 why he knows he has to make another application for an adjournment, but these are not new
10 matters. These are exactly the same matters which were put before you before. There is
11 nothing which has changed whatsoever.

12 In those circumstances, it is obviously inadmissible as ex post facto evidence to
13 impeach your adjournment decision on the 7th. If, on the other hand, it is to support a new
14 application for an adjournment, well, he puts it in and, my Lady, we say it contains nothing
15 which was not available on 7 September. It is as simple as that.

16 JUDGE BARAITSER: Thank you.

17 MR SUMMERS: Well, madam, this has got nothing to do with adjournment. The only
18 reason we are talking about adjournment is because Mr Lewis wishes us to. It is a strawman
19 argument. The reasons we are putting in this evidence is not to impeach your previous
20 rulings, it is to comply with it. You have ruled that we need to make these points within the
21 constraints of the statutory scheme and the statutory questions, and that is why we seek to
22 adduce the evidence in order to do so.

23 JUDGE BARAITSER: Right. Thank you very much.

24 In relation to Mrs Peirce's statement, this is a statement also dated today, seems to be
25 an explanation for why the defence have not provided evidence on the additional information
26 provided in the new request. In relation to this, I return to my rulings at the very beginning of
27 this case. On 7 September, the defence applied to excise parts of the new request and for
28 reasons I gave then I considered that arguments about the scope of the request must be done
29 in the context of an extradition bar or an issue raised, rather than by a process of cutting out
30 some parts of the request.

31 Having made this ruling, the defence applied to adjourn the proceedings to obtain
32 further evidence on the content of the new request. For reasons given on 7 September, that
33 application was refused. This was primarily because in order to assist the defence and to
34 ensure that they were not put at any disadvantage by virtue of the new request, they were

1 offered the opportunity to apply to vacate this hearing and for it to be relisted at a later date.
2 That offer was firmly refused.

3 This statement now purports to suggest that the defence are put at a disadvantage by
4 the new request. Their opportunity to raise this has passed and almost all of the evidence has
5 now been heard. In my view, it is not in the interests of justice to revisit these decisions by
6 way of Mrs Peirce's statement and therefore that cannot be adduced either.

7 That deals with all three statements. Is there anything else I need to receive or hear
8 about?

9 MR FITZGERALD: No, my Lady. I think now everything else will be dealt with by way of
10 the admissions and matters that are going to be put before the court by Monday at 4 pm and
11 the rest we will put in our submissions on political motivation and on the human rights issues,
12 both Article 7 and Article 10 and Article 3, in writing, my Lady.

13 JUDGE BARAITSER: Thank you. Now in relation to a judgment decision date. That is
14 going to take place on 4 January in the New Year at this courthouse at 10 o'clock in the
15 morning. I am assuming that is convenient to all parties. In that case, I am going to adjourn
16 this case.

17 Mr Assange, you are very welcome to stay seated, but all of the evidence in this case
18 has now been heard. As you know, your lawyers have asked for a further four weeks to
19 prepare their closing submissions and the CPS have asked for a further two weeks to prepare
20 their response and I have allowed both sides this time. This means that the decision in your
21 case will now be handed down in the New Year. Time has been made available, as I have
22 indicated, on 4 January here at the Old Bailey and you will be produced here at 10 o'clock in
23 the morning on that date to receive the decision.

24 A further application for bail is made and between now and 4 January you will remain
25 in custody for the same reasons as have been given to you before. As you know, the law
26 requires you to be produced before a court every 28 days, in your case over the video link,
27 until 4 January. The court will sit at Westminster magistrates' court for those hearings, the
28 next date being 30 October at 10 o'clock in the morning. These are administrative hearings
29 in which nothing of substance is expected to take place. Indeed, it is likely to be judges other
30 than myself who will attend these hearings as part of their general list.

31 I would like to thank all of the lawyers in this case for their exceptional hard work in
32 arranging the remote attendance of their witnesses and their efforts to make good use of court
33 time throughout the hearing. Thank you all. This concludes the proceedings for the time
34 being. Back on 4 January.

1 I made a mistake in relation to the four week date. It is not going to be the 28th; I am
2 told it will be the 29 October at Westminster magistrates' court, 10 o'clock over the video
3 link.

4 Thank you very much indeed.

5 MR LEWIS: My Lady, may I just say, I am sure on behalf of the Bar, can we thank the court
6 staff as well. They have done a great job making sure the technology has run and all the rest
7 of it.

8 JUDGE BARAITSER: I should have said that. Thank you very much for reminding me,
9 Mr Lewis, and indeed I do extend my thanks to everybody here.

10 MR FITZGERALD: Thank you, my Lady.

11 ADJOURNED AT 16.23 UNTIL 4 JANUARY 2021

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