

Julian Assange Against the Imperium: Day Two of Extradition Hearings

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The second day of extradition hearings against Julian Assange and by virtue of that, WikiLeaks, saw Mark Summers QC deliver a formidable serve for the defence at Woolwich Crown Court. "It's difficult to conceive of a clearer example of an extradition request that boldly and blatantly misstates the facts as they are known to be to the US government." The targets were, respectively, allegations by the US Department of Justice that Assange attempted to conceal Chelsea Manning's identity for nefarious purposes and second, that WikiLeaks was reckless as to the potential consequences of harm in releasing unredacted State Department cables in 2011.

The position WikiLeaks has taken on the latter position goes back to the problematic, rocky relationship it has had with *The Guardian* over the years. In November last year, the paper [took the position](#) that Assange had to "be defended against extradition to the United States in a case that digs at the foundations of freedom of democracy in both Britain and the US, and could see him sentenced to a total of 175 years." History, however, shows a more fair-weather friend disposition, especially amongst a few of the paper's journalists.

The Guardian was one of a select number of international outlets WikiLeaks had partnered with in what was intended to be, according to Summers, a harm minimisation process of release. Initial cable publications in November 2010 heeded the principle of redaction, so much so that John Goetz of *Der Spiegel* considered them "extreme". Goetz's statement [was duly read](#) by Summers: "These were more extreme measures than I had ever previously observed as a journalist to secure the data and ensure they could not be accessed by anyone who was not a journalist."

To the claim of reckless publication, it was submitted that journalists Luke Harding and David Leigh revealed the relevant password in their book *WikiLeaks: Inside Julian Assange's War on Secrecy* that led inexorably to the indiscriminate release of the cables. The password granted access to the encrypted file with the full trove of unredacted cables, though this fact was only picked up by the German publication *Der Freitag* in August 2011. James Lewis QC, representing the Crown Prosecution Service, scoffed at the notion, leading to the defence referencing the index of Harding and Leigh's work.

The account submitted by Summers did not lack thriller appeal. On August 25, the day *Der Freitag* started getting busy, Assange and Sarah Harrison, his WikiLeaks counterpart, [got on the phone](#) to both the US State Department and the US ambassador in the UK. An emergency regarding the publication of unredacted State Department files, they warned, was imminent. WikiLeaks, they stressed, would not be responsible for it. The picture presented about Assange was one of concern. "We don't understand," he claimed at the time, "why you don't see the urgency of this. Unless we do something about it, people's

lives are being put at risk.”

The 18th count of the indictment charging that Assange aided and abetted Manning’s 2010 disclosures as part of a “conspiracy to commit computer intrusion” was given similar, withering treatment. Underpinning the argument is the claim that Assange assisted Manning adopt an anonymous identity via a cracked US military password. That identity, argue the prosecution, would have permitted the obtaining and dissemination of classified material without her exposure.

This, countered Summers, lay in the realm of gross misunderstanding. The US military would hardly have concerned itself with login details initiated by an anonymous user. Far better to focus on the relevant IP address, a true sign of a user’s individuality. Again, the stress by the defence has been on Manning’s individual conscience and initiative, making her a more traditional whistleblower than a malicious co-conspirator in computer hacking. In her 2013 court martial, Manning [insisted that](#) “no one associated with the WLO [WikiLeaks] pressured me into giving me more information. The decisions I made to send documents and information to the WLO and the website were my own decisions, and I take full responsibility for my actions.”

Nor could her motives for disclosing such documents be impugned; she had disclosed the US Army’s 2007 Rules of Engagement to enable those viewing the [Collateral Murder video](#) to contextualise the attack by the Apache helicopter that killed over a dozen people, including two Reuters news staff, in the Iraqi suburb of New Baghdad.

Also worth nothing here is the level of discrimination shown: Manning [did not provide](#) the rules of engagement files from Afghanistan, despite having access to them. The superseding indictment would have you think otherwise, [alleging](#) that, “Between in or around January 2010 and May 2010, consistent with WikiLeaks’s ‘Most Wanted Leaks’ solicitation of bulk databases and military and intelligence categories, Manning downloaded four nearly complete databases from departments and agencies of the United States.”

The demolition by Summers was impressively devastating. While the “Most Wanted Leaks” list did seek “bulk databases”, the diplomatic cables did not form part of them. Evidence that Manning had ever seen the list was also scant, a point that could be adduced from material cited in her court martial. Lewis [weakly contended](#) that the “Most Wanted Leaks” list was a “general allegation”, and more attention should be paid to the WikiLeaks website itself, which had the “solicitation” posted on it. Sloppiness is often the métier of the desperate.

Lewis was also far from convinced about Manning’s motives, [following](#) a crude syllogistic line of reasoning that proved clumsy and laboured. The statement made by Manning to show her wounded moral compass was “self-serving” in nature; but it was merely self-serving because it was made by a conspirator. Conspirators, it followed, have no morals. “You can’t rely on a self-serving statement without qualification whatsoever. It’s the self-serving statement of a co-conspirator.”

What the defence had shown on the second day of extradition hearings was the increasingly hollow nature of much in the prosecution’s case, one increasingly reliant on what Summers described as “lies, lies, and more lies.”

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