

Proxy Jailor: Denying Assange Bail

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History, while not always a telling guide, can be useful. But in moments of flushed confidence, it is not consulted and Cleo is forgotten. A crisp new dawn can negate a glance to the past. Having received the unexpected news that Julian Assange's extradition to the United States for charges of breaching the Espionage Act of 1917 and computer intrusion had been blocked by Justice Vanessa Baraitser, his legal team and supporters were confident. All that was left was to apply for bail, see Assange safely to the arms of his family, and await the next move by wounded US authorities.

Former UK ambassador Craig Murray, human rights activist and veteran reporter on the Assange case, was initially buoyant in [his column](#). "I fully expect Julian will be released on bail this week, pending a possible US appeal against the blocking of his extradition." He further got "the strong impression that Baraitser was minded to grant bail and wanted the decision to be fireproof."

That fireproofing never came. On Wednesday, January 6, the application for bail by Assange's legal team was rejected. Counsel for the US government, Clair Dobbin, built the prosecution's case around the strong possibility that the publisher might flee the clutches of UK authorities even as the US was gathering its wits for an appeal to the High Court. "His history shows he will go to any lengths to get away."

Forums would welcome this disreputable character: Mexico, for instance, had offered to "protect Assange with political asylum." The defence might well say that he would not flee due to poor health, but could they be sure? A "flight risk" had little to do with mental wellbeing. Remember, she pressed, what he did during the Swedish proceedings, how he "ruthlessly" breached the trust of those who fronted the bail money. Those who had offered surety for him, such as the Duchess of Beaufort, Tracy Worcester, had also failed in ensuring that Assange presented in court in 2012. Beware, warned Dobbin, of sinister networks of operatives he could call upon to aid him vanish. WikiLeaks had, after all, facilitated the escape of Edward Snowden.

Dobbin's tone and manner – gloomy and Presbyterian, as Murray [described](#) it – was all judgment. She insisted to the court that, "any idea that moral or principled reasons would bear on Mr Assange's conscience turned out to be ill-founded indeed." And she had much to go on, as Baraitser's own judgment had essentially accepted virtually everything the prosecution had submitted bar grounds of mental health and the risk posed to him in US prison facilities.

As for the basis of whether an appeal would succeed, Dobbin was convinced the prosecution were onto something. The judge, she respectfully submitted, [had erred on a point of law](#) in applying the incorrect test on the prison conditions awaiting Assange. The test was not

whether measures taken by US prison authorities would make suicide impossible; the only issue was for authorities to put measures in place to lessen its prospects. Reprising her role in attacking various defence witnesses who had put together a picture of grotesque danger awaiting Assange, including the ADX supermax prison in Colorado, Dobbin was convinced that the US system stood the test.

Sidestepping the defence evidence on this, more thorough than anything supplied by the likes of US Assistant US Attorney Gordon Kromberg during the trial, Dobbin argued that no thorough assessment of the facilities for treatment and prison conditions had taken place.

Baraitser [proved accommodating](#) to Dobbin's whipping submission. "Notwithstanding the package offered by the defence, I am satisfied he might abscond." Having discharged Assange, she promptly repudiated her own ruling in a fit of Dickensian jurisprudence. "The history of this case is well known... Assange skipped bail and remained in the Ecuadorian Embassy to avoid extradition to the US." Assange would remain in Belmarsh prison pending the US appeal.

In her Monday [judgment](#), Baraitser had acknowledged the signs of potential suicide shown by Assange during his stay in Belmarsh. The prison adjudication report confirmed that, on May 5, 2019 "during a routine search of the cell solely occupied by Mr Assange, inside a cupboard and concealed under some underwear, a prison officer found 'half a razor blade'." Baraitser even went so far as to accept, based on the assessment of defence witness Professor Michael Kopelman, that the finding of the razor was not merely a "disciplinary infraction" but one of the "very many factors indicating Mr Assange's depression and risk of suicide."

On Wednesday, her tune was indifferent to the consequences of sending Assange back to a maximum security prison stocked with Britain's most notorious inmates. Continuing her long spell of denial on the seriousness of COVID-19 in the UK prison system, she swatted the submission by defence counsel Edward Fitzgerald QC that there had been 59 cases specific to Belmarsh before Christmas and that the prison remained locked down. Dobbin [demurred](#) on this point, showing an email sent by prison authorities at 10.49 pm the previous night claiming that only 3 positive tests for COVID for Belmarsh had been returned.

The result is that Assange continues to be punished, facing brutal carceral conditions while he awaits the next move by US prosecutors, despite having already served his sentence of skipping bail. As a dejected Murray [wrote](#), "Julian is living his life in conditions both torturous and tortuous."

Amidst the banal cruelties of Wednesday's proceedings came a smidgen of hope for Assange. G. Zachary Terwilliger, the US attorney for the Eastern District of Virginia handling the prosecution, had to admit to being uncertain about what a Biden administration would do. Speaking to NPR, Terwilliger [suggested](#) that any decision taken on Assange would "come down to resources and where you're going to focus your energies." But he is not waiting to find out: a position at the law firm Vinson & Elkins awaits.

The UK, having adopted a position as Washington's proxy jailor, is not about to quit its sordid role. Assange's wellbeing and health continue to be jeopardised by his stay in Britain's most notorious prison, where determined despair, as Baraitser herself has acknowledged, can take their toll.

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