

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3)(a) and 5B;

Criminal Procedure Rules 2010, Rule 27)

STATEMENT OF MARK STEPHENS

Aged: Over 18

Occupation: Lawyer

This statement (consisting of pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signed.....Dated.....10 JANUARY 2011

I, Mark Howard Stephens, solicitor, of Finers Stephens Innocent LLP, 179 Great Portland Street, London W1W5LS, make this statement and say as follows:-

1. This is my second statement in these proceedings.
2. I annexe correspondence from the Australian High Commission in which they share with me correspondence from the Swedish prosecutor Marianne Ny to the Australian Ambassador in Sweden together with the diplomatic translation provided by the consular authorities. My counsel refer to this in their provisional skeleton argument.
3. I also attach an article from the Daily Telegraph which reports in direct speech the reasons given by Marianne Ny for issuance of the EAW in this case.
4. Turning to the question of directions. I was in Court on 14 December when bail was granted by S.D.J. Riddle. There was a brief discussion between the judge and counsel about the date for the substantive hearing which was agreed and fixed for 7-8 February as the earliest time at which the defence could be ready on the assumption that the bail had been granted. In fact, right at the end of the hearing Counsel for the requesting state asked for permission to appeal the bail decision. This, of course, led to a delay unanticipated when the timetable was being fixed.
5. Before the application to appeal the bail decision, there was discussion between both counsel and the judge as to the date of the review hearing which was then fixed for 11 January for the formality of agreeing the timetable to meet the hearing date fixed for the 7/8th February. The judge did not invite submissions on directions and rather stated that he would prefer counsel to agree (prior to the 11th) the directions that would enable the hearing fixture to be effective, saying that is "my preferred course".
6. On 16 December I was present for the CPS appeal against bail which was dismissed with costs. In the course of his judgment, Mr Justice Ouseley found that Mr Assange "has expressed, and I see no reason to doubt it, a willingness to answer questions,

Signed.....Witnessed by.....

either over the telephone or some other suitable form of communication, if the prosecutors in Sweden wish to put them to him". I have asked his Swedish lawyer, to - once again - ask the Prosecutor whether she would accept his evidence in this form.

7. We received the Prosecution Opening, this evening which would normally be the first stage of any timetable. Nevertheless counsel have prepared a provisional skeleton argument that will be exchanged for the Prosecution Opening and will provide the Prosecution not only with a statement of issues, but in the case of most of those issues, a full legal argument. Obviously that argument can only be perfected once counsel have time to consider the Prosecution's opening note.
8. For clarification, my office received no communication from the Court until after 6.00pm on 23 December when a timetable envisaging the service of evidence of fact and expert evidence on 11 January 2011 was received from Dr Franey. There had been no contact with the Court prior to this and no invitation either to counsel or to solicitors to discuss the timetable or to inquire whether it was possible to comply. Later that evening my firm sent a letter explaining why it would not be possible and would not provide Mr Assange to his right to adequate time and facilities to prepare his defence.
9. That said, the preparation for the hearing on 7-8 February is proceeding in a timely manner on behalf of Mr Assange. We anticipate being able to serve our evidence of fact and opinion during the week of 17 January 2011 and we plan to travel to Sweden early in that week to take the evidence. We have suggested that the CPS response, if any, should be made by Friday 28 January with any reply evidence to be served by Thursday 3 February together with final skeleton arguments.
10. I should point out to the Court that our experts are members of the Swedish Bar Association, and that I am advised that it is traditional for them to take a Christmas/New Year break that lasts until the 3rd week in January. Indeed this week the Swedish bar are currently holding their annual conference in Guadeloupe and Mr Assange's lawyer, Mr Hurtig, who is essential for arranging the meetings, is unavailable until next week.
11. So far as the fourth point raised by the District Judge, we think that the most convenient date for producing the final bundle would be Friday, 4 February 2011, and the parties can liaise for this purpose to ensure that it is available to the Judge for the weekend should he so desire.
12. So far as the point raised by the judge concerning provision of skeleton arguments to the media, we have no objection to this. The appropriate time for disclosure - and we are happy to do this electronically - would be on the day that the argument is presented orally to the Court, i.e. on 7 February.

Signed.....

FSI-4807995-1

Witnessed by.....

10 January 2011