

WITNESS STATEMENT

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

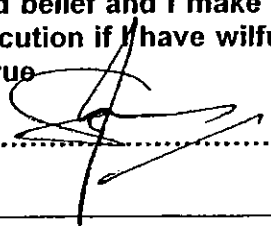
Criminal Procedure Rules 2010, Rule 27)

STATEMENT OF MARK STEPHENS

Aged: Over 18

Occupation: Lawyer

This statement (consisting of 5 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.....14 December 2010.....

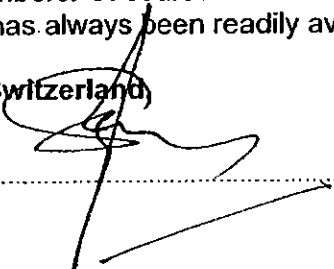

I, Mark Stephens, of Finers Stephens Innocent LLP, 179 Great Portland Street, London W1W5LS, make this statement and say as follows:-

1. I am a solicitor of many years standing, and a senior member at Finers Stephens Innocent.
2. I have been acting for Mr. Assange in this country since mid-October. I make this statement in order to assist the court by placing before it matters relevant to Mr. Assange's application for bail.
3. To assist the Court to understand the background and context of this matter, I have prepared a chronology of the case (Exhibit MS-1).

Co-operation with authorities

4. May I emphasise that Mr. Assange has at all times instructed me to make arrangements for him to surrender in the event that a valid EAW was presented to SOCA. For that reason my firm contacted the extradition squad as early as the beginning of November to explain that he was not in hiding and to discuss the modalities of his surrender should this be necessary. In consequence I caused a letter to be written to the squad on 2nd November acknowledged by D.C. Potter on 8th November (Exhibit MS-2). Pursuant to this understanding with the police, once they communicated with me on 6th December I contacted Mr. Assange.
5. I confirm that Mr. Assange has not been, as has often been misreported, "in hiding" in the UK over the last few months. He has, in fact, been staying for much of that time at the "Frontline Club" in Paddington which is a residential club and has many journalist members. Of course he has been careful not to attract unnecessary public attention but he has always been readily available to me and to his friends and to serious enquiries.

Asylum in Switzerland

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

6. There has never been any indication from Mr. Assange, in the time that I have represented him, that he would flee the country or decline to face any extradition hearing. On the contrary, he was perfectly free in October and November to leave the UK and did not do so, other than briefly to speak at the UN in Geneva. The CPS suggestion at the last bail hearing that he might be interested in seeking asylum in Switzerland is refuted by the fact that instead of staying in Geneva for that purpose he returned on Swiss Air flight no: LX356 arriving at Heathrow Terminal 1 on the 10th of November. I append a copy of his electronic ticket (Exhibit MS-3). Indeed, he called my assistant, Jennifer Robinson, from Heathrow both before and after immigration.

Last Entry into UK

7. The further suggestion that Julian Assange may have entered the UK without notice is plainly incorrect and I have asked the CPS to withdraw it on providing them with his date and time of entry (above) from Switzerland, where he went through immigration control in the proper way, presenting his passport. I am informed by an immigration expert that where he is in possession of his passport that his right to remain for six months would normally be renewed without difficulty to enable him to deal with ongoing legal matters and would certainly be renewed if he were still subject to an extradition warrant. Further, that in the event of his passport being taken from him as a condition of bail or is otherwise held by the police during this process then he is protected because he couldn't have left before his leave expired and he couldn't have made an extension application. Therefore this objection falls away.

Likelihood of absconding

8. As will be explained to the court, Mr Assange is prepared to submit to bail conditions which would amount to a virtual "house arrest", supervised by sureties who know him well. In addition, I should point out that the Swedish authorities have prevailed upon Interpol to subject him to a "red notice," which means he is likely to be detained at any port. He is also prepared to submit to electronic tagging, which would effectively subject him to Geo-positioning. Of course the court will appreciate the point that he is now so well known that he cannot go anywhere without being recognised.

Seriousness of Charges

9. It will be appreciated that Mr. Assange faces three charges which carry a maximum of two years imprisonment and one charge, described as rape, which carries a maximum of four years. I am informed by, Mr Hurtig, my clients Swedish lawyer, that this latter charge has itself been reduced by the Swedish Court of Appeal from an offence that carries a higher maximum. I am informed by his experienced Swedish Criminal lawyer that with good character, and lack of any violence or physical injury, there would be a real possibility of a non-custodial sentence in the event of conviction. I append a letter from Mr Hurtig setting this out (Exhibit MS-4).

Likelihood of Conviction

10. The rape charge and two of the other charges were dismissed by the senior Stockholm prosecutor, Ms. Eva Finne, on 21st August on the basis of lack of evidence, after she had considered the complaints of both women. I append translated copies of official statements by the prosecution authority that confirm and describe her decision (Exhibit MS-5). While it is possible that a different decision may be made by another prosecutor – Ms. Ny has not made any decision herself other than to have my client sought for questioning – I am informed that Ms. Finne is a prosecutor of high repute

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and great experience and her judgment in dismissing the charges must make it at least open to question as to whether any conviction would eventually be recorded.

11. Under Swedish law, the courts direct payment for lawyers to represent complainants and both women chose to be represented from the outset by a politician, who is also a lawyer named (Claes Borgstrom). It should not escape this courts attention that this Mr Borgstrom, a left wing social democrat in need of votes was fighting an election when he reactivated the complaint against my client. Indeed, he has given many media interviews attacking Mr. Assange, in a manner that would be prohibited by the contempt law were this prosecution taking place in the UK, but I note that this advocate, paid to put the potential prosecution case at its highest, estimates only a 50/50 chance of conviction.
12. There is further evidence that the prosecution has refused to disclose to Mr. Assange but has permitted his Swedish lawyer to examine. It comprises text messages sent by both complainants shortly before they made their complaint. I am informed by Mr Hurtig that it contains references to revenge, to the desire to obtain a lot of money and to a decision to contact the tabloid newspaper "Expressen" which broke the story after the complaints had been accepted by a deputy prosecutor. This evidence would obviously undermine the prospect of conviction as it shows motivations of malice and desire for financial gain.

Mr. Assange's interview

13. It has been said that Mr. Assange refuses to be questioned. This is untrue. He stayed in Sweden for two weeks waiting to be interviewed by police and attended at a police station on 30th August when he answered every question put to him. We have obtained a copy of the record of interview and have had it translated (Exhibit MS-6) He offered to attend again on dates in September and October but his lawyer was told that these were inconvenient for the prosecution.

Preparedness for further interviews

14. Ever since I came into this case in mid-October I have been liaising with Mr. Hurtig in order to assist his efforts to arrange an interview between the Swedish police and Mr. Assange. All of the claimants' statements were taken by telephone; so I do not understand why this offer has been rejected. Mr. Assange has offered to appear for questioning by way of video conference, Skype, or personal attendance at the Swedish or Australian embassy, or the international interview suite at Scotland Yard, but all to no avail. He has offered to put a full account of his conduct on affidavit but this too has been rejected. Ms. Ny has also declined to use the facilities available through the Mutual Legal Assistance Treaty. Her attitude at this pre-trial stage is indicated by the fact that she asked the Swedish court not merely for an order remanding him in custody, but for a special order (used for terrorists) to remand him in solitary confinement. This disproportionate request was denied. (See Exhibit MS-4)
15. I must emphasise that Mr Assange has a genuine wish to refute these unpleasant allegations and them dropped. The prosecution has stated repeatedly and explicitly that they only want to interview Assange (see, for example, AFP article quoting Marianne Ny dated 18 November 2010, Exhibit MS-7). If granted bail, he would willingly offer as a condition that he subject to any interview or interrogation requested by Swedish authorities that can take place in this country.

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Witnessed by.....

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16. I should make the point that there has never been communicated to Mr Assange or to his counsel or via the Australian Embassy, in any language which he can understand (i.e. English) either the nature of the allegations against him or the evidence.

Facilities for preparing defence

17. On his remand last Tuesday, before leaving the Court building, I immediately sought a legal visit but was told that none could be arranged for six days. It took representations at the highest level of the Ministry of Justice and via the Australian High Commission, to obtain a one hour legal visit on Thursday, but this is entirely inadequate to deal with complicated issues that beset him and two short visits a week breach the ECHR requirement that he should have adequate time and facilities to prepare his defence to this very complex case. It is the experience of the criminal team in my firm that such visits will be few and far between over the Christmas and New Year period. He has not been given access to his laptop and is allowed no more than two telephone calls a day and has thus far been denied exercise beyond 30 minutes per day. He is in an isolation unit, unable to read newspapers or watch television, and is subject to the pettiest censorship. (Mail has not been given to him, a letter from the Financial Times was returned, contrary to prison rules, and the entire copy of "Time" magazine was destroyed before it reached him because his picture was on the front cover!)
18. He is subject to much unfair vilification and denying him bail has silenced him and prevented him exercising his right to reply or to take legal advice on defamation. He cannot attend to business which has a number of employees and impacts upon them as well. Most infuriatingly, he cannot dissociate himself from persons who are invoking and using his name to attack corporations and to conduct themselves in ways of which he does not approve. This is seriously debilitating for him personally and prevents him from asserting his right to reputation.

Signed.....

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14 December 2010