



**JUDICIARY OF  
ENGLAND AND WALES**

**The Government of the United States of America  
Requesting Judicial Authority**

**v**

**Lauri Love  
Requested Person**

**Judge N Tempia  
In the Westminster Magistrates' Court**

**Advocates: Mr P Caldwell – Judicial Authority  
Mr B Cooper – Requested Person**

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**APPLICATION AND BACKGROUND**

1. This is an application by the Government of the United States of America for the extradition of the requested person, Lauri Love, (dob: 14.12.1984) a United Kingdom citizen, who is accused of unlawfully accessing computers used by United States Federal Agencies and private companies and misusing the data he unlawfully obtained.
2. The United States of America is a Category 2 territory. Part 2 of the Extradition Act 2003 (the Act) applies.

3. The criminal proceedings in the US have been commenced in three judicial districts, the Southern District of New York, the District of New Jersey and the Eastern District of Virginia. These proceedings are referred to within a Diplomatic Note from the United States dated 6<sup>th</sup> July 2015. The material relating to each of the judicial districts was separately certified by the Secretary of State on 7<sup>th</sup> July 2015 and these proceedings are treated as a single request. The bundle contains the warrants for Mr Love's arrest in the three districts and were issued by the Southern District of New York on 21<sup>st</sup> February 2015, District of New Jersey on 23<sup>rd</sup> March 2015 and Eastern District of Virginia on 21<sup>st</sup> May 2015.
4. Following certification a warrant was issued for Mr Love's arrest. Mr Love was arrested on 15<sup>th</sup> July 2015 and appeared at Westminster Magistrates' Court on the same day. The initial hearing was unchallenged. Mr Love did not consent to his extradition. He was granted bail and has remained on bail throughout the proceedings.
5. Section 78 of the Act requires the judge at the initial stages of the extradition hearing to decide whether the documents received include the documents referred to in section 70(9), the certified request, the particulars of the person whose extradition is sought, particulars of the offences specified in the request and, where a person is accused of an offence, a warrant for his arrest has been issued in the category 2 territory.
6. I have received prosecutor's affidavits and photos which accord with the particulars given in the Diplomatic Note which provides Mr Love's personal information and references to other names he is known as including, "nsh", "peace", "shift", "route", "Smedley Butler".

### **EXTRADITION OFFENCES**

7. The Government of the United States is not required by operation of the Extradition Act 2003, in common with many other States, to adduce a prima facie case and it is not for me to determine if there is

a case to answer, however, I have set out the nature and extent of the evidence obtained by the United States prosecutors against Mr Love. I will set out an overview of the evidence contained in the affidavits to set out the extradition offences (details of the individual indictments are contained in Mr Caldwell's Opening Note dated 15<sup>th</sup> June 2016, pages 5-12).

8. Mr Love is accused in three indictments that between the period October 2012 to October 2013, he, working with others, made a series of cyber-attacks on the computer networks of private companies and United States Government agencies, (including the US Federal Reserve, US Army, US Department of Defence, Missile Defence Agency, NASA, Army Corps of Engineers, Department of Health and Human Services, US Sentencing Commission, FBI Regional Computer Forensics Laboratory, Deltek Inc, Department of Energy, Forte Interactive, Inc) in order to steal and then publicly disseminate confidential information found on the networks, including what is referred to as personally identifiable information ("PII").
9. Mr Love is accused in three indictments in three districts as follows:
  - (i) Southern District of New York – Mr Love faces two counts on Indictment, one of computer hacking (maximum sentence of 10 years imprisonment) and one of aggravated identity theft (maximum sentence of 2 years imprisonment to be imposed consecutively to the sentence for count 1).
  - (ii) The New Jersey request details two counts on one indictment. One count is conspiracy to access a computer without authorisation and obtain information from a department or agency of the United States (maximum sentence of 5 years imprisonment) and one of accessing a computer without authorisation and obtaining information from a department or agency of the United States (maximum sentence of 5 years imprisonment).
  - (iii) The Eastern District of Virginia request contains nine counts on an Indictment, count 1 – conspiracy to cause damage to a

protected computer and to commit access device fraud (maximum sentence of 5 years imprisonment); counts 2 -7 – causing damage to a protected computer and aiding and abetting (maximum sentence of 5 years imprisonment); count 8 – access device fraud and aiding and abetting (maximum sentence of 10 years imprisonment) and count 9 – aggravated identity theft and aiding and abetting (maximum sentence of 2 years imprisonment).

10. In most of the attacks it is alleged Mr Love gained unauthorised access by exploiting vulnerabilities in a programme the computers ran known as Adode ColdFusion; software designed to build and administer websites and databases (the “ColdFusion Attacks”). It is further alleged Mr Love also carried out “SQL Injection Attacks” in which unauthorised access was gained to computer databases by manipulating “structured query language”, computer programming language designed to retrieve and manage data on computer databases (the “SQL Injection Attacks”).
11. Once inside the compromised computer systems, Mr Love and others placed hidden “shells” or “backdoors” within the networks. This allowed them to return and steal the confidential data which included telephone numbers, social security numbers, credit card details and salary information of employees, health care professionals, and service personnel.
12. A confidential source working for the United States Federal Bureau of Investigation (FBI) had access to a restricted online “chat room” used by Mr Love and others from about 2012 to 2013. They had discussions about their hacking activity in the chat room using Internet Relay Chat (“IRC”). This allows multiple users to talk about their activities using typed messages to each other. Various online names were used to disguise their true identities. From this the FBI has identified Mr Love’s nicknames as “nsh”, “peace”, “shift” and “route”.
13. Mr Love used IRC to discuss how to “exfiltrate” the stolen data and what could be done with it.

14. On 25<sup>th</sup> October 2013 officers of the National Crime Agency (NCA) executed a search warrant at Mr Love's address in Stradishall, Newmarket, while he was present. One of his computers was logged onto an online chat room using the name "nsh". It is alleged some of the computers in his possession had some of the data stolen during the computer intrusions under investigation, including some intrusions that he discussed online using the name "nsh" and other names attributable to him.
15. Under section 137(3)(b) I have to be satisfied that the conduct specified in the request would constitute offences in the United Kingdom if they had occurred in England and Wales. Mr Caldwell's analysis of the offences (set out at page 13, para 52 of his Opening Note) has not been challenged by Mr Cooper and I am satisfied the conduct alleged would amount to the offences outlined at paragraph 52 and therefore are extradition offences, namely offences under sections 1 and 2 of the Computer Misuse Act 1990 (carrying maximum sentences of 2 years and 5 years imprisonment respectively); sections 327, 328 and 329 of the Proceeds of Crime Act 2002 (carrying maximum sentences of 14 years imprisonment) and the common law offence of conspiracy.

## **EVIDENCE**

16. I have been supplied with bundles of documents and have heard oral evidence and submissions from the parties including written submissions.
17. **Reverend Alexander Love** gave evidence in person and adopted his three statements dated 3<sup>rd</sup> October 2015 (Bundle, pages 373-384), 13<sup>th</sup> January 2016 (pages 385-386) and 27<sup>th</sup> June 2016. His oral evidence can be summarised as follows: He gave evidence of his son's history of anxiety and low self-esteem, of how he "fell apart" when he was at sixth form college, during his National Service in Finland (he applied for a Finnish passport as his mother is Finnish and was aware he would have to undertake military service) and when he attend Nottingham and Glasgow Universities. In 2005,

whilst at Nottingham University, his son became depressed and returned home a “mental and physical wreck” (bundle tab23, para 36). In 2006 he suffered anxiety and was referred to mental health services

18. During Mr Love’s second year at Glasgow University his mental health deteriorated so badly his parents had to collect him and bring him home. He has told his parents that if it were not for them he would have killed himself.
19. In his role as a prison Chaplain in Highpoint Prison in Suffolk, Reverend Love told me of the approach used by the prison estate in the UK to deal with potential suicidal risks in prisoners, which I interpret as being an holistic approach, including engaging with the prisoner’s family and encouraging the inmate to talk about their situation. His son will not have parental support if extradited.
20. Under cross examination Reverend Love said his son would not take his life “in an attempt to make us feel guilty” but that if he were on remand in the United States and his family were no longer with him, “despair will grip him deeper”.
21. **Mrs Sirkka Love** gave evidence in person and adopted her statements dated 3<sup>rd</sup> October 2015 (Tab 25) and 28<sup>th</sup> June 2016 (Tab 39). Her oral evidence can be summarised as follows: She confirmed her son was diagnosed with eczema as a baby; he also suffers from asthma. In the last few years she has noticed a correlation between his physical symptoms (screaming and suffering pain) and his mental state. She agrees with her husband’s statement (tab 23, page 9, para 4) in which he states, “The only thing that keeps Lauri from killing himself is me and my wife and having him at home with us. He has told me very clearly he would kill himself if there was an order for extradition”.
22. **Professor Simon Baron-Cohen** gave evidence in person and adopted his three reports dated 7<sup>th</sup> December 2015 (tab 4), 4<sup>th</sup> February 2016 (tab 5) and 1<sup>st</sup> June 2016 (tab 6). He is Professor of Developmental Psychopathology at the University of Cambridge and Fellow of Trinity College, Cambridge. He is Director of the Autism

Research Centre in Cambridge. He has been involved in autism research for 30 years and has been a consultant in the NHS for 15 years specialising in the diagnosis of Asperger Syndrome in adults.

23. He has considered the evidence of other experts in this case, including Professor Kopleman's witness statement and evidence of the treatment Mr Love is likely to receive in US custody. He confirmed Mr Love's diagnosis of suffering from Asperger Syndrome (AS) which is a sub group of the autistic spectrum. He does not have AS in combination with learning difficulties, attention deficit and language. He is high functioning.
24. Those suffering from AS struggle in social relations, communication, develop unusual interests, have hypersensitivity and cannot adjust to social change. Mr Love feels socially isolated and suffers from severe depression, which is not uncommon in AS sufferers. The questionnaire completed by Mr Love was self-reporting and is used to determine scores to identify how many autistic traits an individual has in order to be referred to a specialist. When he sees a patient he always takes due diligence that someone may be inflating their symptoms.
25. Under cross examination Professor Baron Cohen agreed that Mr Love has capacity to participate in a trial, give instructions to his lawyers and a fair trial process was available to him. He also said, "to be balanced, in prison he could be as calm as he is now and put his hand up and ask for help. Equally his mental health may deteriorate and he cannot do that if the voice will tell him to kill himself". Psychological wellbeing fluctuates.
26. He agreed the overwhelming priority, if extradition were ordered, was to keep Mr Love alive. This could be done on bail under the supervision of his parents. Incarceration in the United Kingdom prior to removal would not be a means of alleviating suicide. Mr Love has thought through the way he could evade detection about committing suicide and he is able to do this and said, "it would be a risk to assume this is a fantasy". He agreed that a previous attempt at suicide might be an indicator of Mr Love attempting suicide

again, but in this case the self-neglect and being unwell which necessitated him being brought home from University may be a sign of suicidality.

27. Professor Baron-Cohen assessed Mr Love's risk of suicide as very high and if he were not at home his risk increased. Mr Love was "way above average intelligence" and would be well aware the authorities will do all they can to prevent suicide. When asked if Mr Love's suicide ideology was a voluntary act or through mental illness, Professor Baron-Cohen's evidence was Mr Love's experience of intent was not a reflection of a voluntary plan or act, he does not want to die but his mental health is so dependent on being at home with his parents and not being detained for an indefinite period, he could not impose restraint on himself to stop himself committing suicide. He has made it clear that at the point he is handed over his suicidal feelings will increase.
28. The Professor was initially impressed with the United State's highly developed mental health system and how it cared for prisoners with mental health issues but changed his mind after reading Dr Kucharski's report, which highlights staff shortages, prisoner ratios and there being no experts in AS. There is insufficient clinical or other support to prevent a likely suicide.
29. He said it would be pure speculation about what would happen to Mr Love in solitary confinement.
30. He confirmed his opinion in his report dated 1<sup>st</sup> June 2016 (tab 6, page 1, para 1a) that the Federal Bureau of Prisons (BOP) protocols are not satisfactory for Mr Love given mental health services are only valuable on a non-emergency, voluntary basis and Mr Love may not be allowed to see a private specialist.
31. **Dr Thomas Kucharski** gave evidence in person. He has been a forensic psychologist for 30 years. For 2 ½ years from 1991 he was a forensic psychologist at the Federal Medical Centre in Rochester, Minnesota (one of five medical facilities operated by the Federal Bureau of Prisons). For the next 9 years he was a forensic psychologist and promoted to Chief Psychologist at the



Metropolitan Correction Centre in New York (one of the facilities Mr Love might be detained at if extradited). He has no direct experience of the two contract facilities in New Jersey and Virginia where Mr Love would be held during proceedings in those districts but served for 1 year as Director of Mental Health at the Westchester County Department of Corrections in Valhalla, New York, a county jail that contracts to detain federal inmates. Since leaving BOP in 2002 he has maintained a part time forensic psychology assessment practice. He said his experience was relatively up to date, he has attended the Metropolitan Detention Centres in Brooklyn and Manhattan and remains in contact with a number of people in the facility.

32. He adopted his report dated 10<sup>th</sup> June 2016 (tab 15). He told me Dr Lynn's Affidavit correctly states there are 600 psychologists or staff in the 122 Federal Bureau of Prisons (BOP) institutions but mischaracterises their role; the true level of services is substantially lower than that she states. Each institution has a Chief Psychologist (which is in effect an administrative role). Out of 60, one psychologist would be a drug abuse co-ordinator who would not engage with prisoners and 30 are forensic psychologists who prepare reports regarding competency to stand trial. All inmates in segregation have to be seen every 30 days.
33. Dr Kucharski said it was most likely Mr Love would be sent to the Metropolitan Detention Centre. That facility shares a full time psychiatrist. He has concerns that, given Mr Love's presentation, he would be placed on suicide watch for a substantial period of time and probably as soon as he arrived. There is also a high risk of suicide if he were placed in segregation (where he would go if he misbehaved). Dr Kucharski commented that a lot of mentally ill prisoners are in solitary confinement as their behaviour "upsets the apple cart".
34. Suicide watch comprises being put in a room with an inmate observing the prisoner 24 hours a day. The conditions in segregation are the same as those on suicide watch save for inmate

observation. Mr Love would be seen by a psychologist once a day to determine if he needed to stay on suicide watch. He commented, “no one commits suicide on suicide watch”.

35. Dr Kucharski also told me the county jails probably have worse mental health facilities than in the metropolitan areas, where prisoners who are serving either short sentences or who are pre-trial are detained.

36. Under cross examination Dr Kucharski said he assesses fitness to plead, insanity cases, sex offender and civil commitment cases. He was last amongst the prison population in 2002.

37. He has not dealt with someone extradited to the United States but would hope the United States Marshalls would be aware of Mr Love’s medical background. On arrival in the United States he would go onto suicide watch at MDC.

38. He confirmed that prisoners suffering from acute symptoms or those who could not function in a medical facility (he gave the example of those suffering from severe schizophrenic symptoms) would be transferred to medical centres.

39. **Professor Michael Kopelman** gave evidence in person. He is an Emeritus Professor of Neuropsychiatry at Kings College London. He adopted his three reports dated 7<sup>th</sup> December 2015 (tab 7) and reports dated 12<sup>th</sup> May 2016 and 26<sup>th</sup> May 2016 (tab 8). His oral evidence can be summarised as follows: Mr Love suffered from recurrent depressive disorder at age 20, 24-25 and in his late 20s. He has severe eczema and asthma. These conditions can predispose someone to depression.

40. In August 2012 Mr Love was referred to his local community health team by his GP. In his opinion, at that time, Mr Love was on the verge of psychosis and was clinically depressed, scoring high on the Beck Depression Inventory (53). Mr Love continues to describe features of depression and the hallucination to kill himself when either severely depressed or fatigued. If/when extradition becomes “imminent his mental health with plummet. Hallucinations will get worse as will his eczema and asthma and suicide ideas will become

prominent in his mind". He suggested Mr Love should see an expert in AS and a psychiatrist to help him with his depression.

41. After hearing Kucharski's evidence, Dr Kopelman said it was likely Mr Love would be in and out of suicide watch, likely to become agitated and not tolerated by the prison authorities, resulting in him being put in segregation, which is well known to have an adverse mental effect on anybody. For someone with an existing psychological disorder, such as Mr Love, it will be even worse. He anticipated the consequences for Mr Love being held for a prolonged period in pre-trial detention in the United States as resulting in a severe deterioration in his mental state, a severe exacerbation of his clinical depression, the possible onset of psychotic ideas and experiences, a worsening of his eczema and asthma and "in consequence, an exacerbation of suicidal ideas to a "very high" level" (tab 8, bullet point 3).
42. Under cross examination Professor Kopleman confirmed he had met Mr Love on 3 occasions and had spoken to him on the telephone. He accepted he had given Mr Love the "Beck Depression Inventory" questionnaire to complete to cast his mind back to how he was feeling in 2012/2013 and agreed it was slightly artificial to get someone to describe their mental state. Mr Love's medical records are limited, he has never been referred to either a senior psychiatrist or a senior clinical psychologist. He has been seen by his GP and a Community Mental Health Team Support Worker.
43. Dr Kopleman said it was not unreasonable to conclude at times of intense stress Mr Love would experience episodes of psychosis given he has had pseudo hallucinations and fragmentary thought processes in the past. He too agreed with Professor Baron-Cohen's assessment that this was not a fantasy.
44. In his opinion what would tip Mr Love over the brink, from not committing suicide, would be a severe deterioration in his depression, psychotic symptoms (including hearing voices), asthma and eczema.

45. His mental condition would remove his mental capacity to resist the impulse to commit suicide. Segregation in a United Kingdom prison is a last resort for the most serious cases of someone at risk of committing suicide.
46. Mr Love has not been taking his medication which is why he needs to be supervised by either a Consultant Psychiatrist or a Senior Clinical Psychologist.
47. **Naomi Colvin** gave evidence in person. She adopted her statements dated 30<sup>th</sup> November 2015 (tab 26) and 14<sup>th</sup> January 2016 (tab 27) is a campaigner and works for the Courage Foundation, an international organisation dedicated to protecting the rights of whistle-blowers worldwide. She told me of a number of cases highlighting the fact that in like circumstances where defendants in the United States were sentenced to imprisonment they spent substantial time in pre-court detention and were subject to coercive plea-bargaining.
48. Under cross examination she confirmed the Courage Foundation is raising funds to cover Mr Love's legal costs through social media and campaigning on his behalf to help him avoid extradition.
49. **Jennifer Arcuri** gave evidence in person. She adopted her statements dated 2<sup>nd</sup> February 2016 (tab 30), undated statement (tab 40) and statement 29<sup>th</sup> June 2016. She set up Hacker House with its aim of ethical hacking. She met Lauri Love 9 months ago. She attests to his emotional fragility. He works at Hacker House from Thursday – Monday.
50. **Lauri Love** adopted his four statements dated 10<sup>th</sup> December 2015 (tab 19), 13<sup>th</sup> January 2016 (tab 20), 1<sup>st</sup> February 2016 (tab 21) and undated proof (tab 22). In his oral evidence he told me as a child he felt a deep sense of alienation from his peers and remembered thinking he was different to others. He was very close to his sister and had a small group of friends. When the family moved to Lowestoft his hair fell out. It grew back when he went to 6<sup>th</sup> form college. However he dropped out and worked in a turkey factory. He applied for a Finnish passport, because his mother is Finnish,

and had to undertake military service. This was not successful because he could not interact with others and was transferred to the civil service. He describes himself as “falling below water” when he cannot function properly. He entered into crisis and was diagnosed with depression. He was apprehensive about taking antidepressants, giving an example of a friend’s problems taking them. He finds it difficult to confide in people and does not “know how empathy and autism are related, but if I share problems it seems unfair and I’ve kept my counsel. It appears now, given my understanding of AS, I have not been able to do this”. In respect of his eczema, he told me he bathes every day and uses creams and steroids. He has tried immune suppressant drugs in the past but given he has a suppressed immune system, he is cautious about using them. He experiences skin infections and his skin falls off. The pain from his eczema causes him stress which in turn causes more inflammation of his skin.

51. He is unable to resist the need to scratch, “every day I try my utmost to tear apart the skin in my body. Every day I fail to control this urge. If sent to the United States of America those conditions, urges to die would be stronger than my urge to scratch every day. My degree of control is already impaired because of these proceedings. The urge, the despair, feeling of helplessness will result in my ending my life”.
52. His involvement in activism started at Glasgow University. He was involved in a 7 months occupation of the university. He also told me about Aaron Schwartz who committed suicide after being prosecuted for downloading documents from the Massachusetts Institute of Technology. He feels the prosecutors have added charges to obtain a plea bargain, which he will refuse. He also said he will not be able to access the evidence against him if he were in custody.
53. He is currently studying for a degree in electrical engineering at University Campus Suffolk and teaching at the University. He works for Hacker House advising on computer security systems.

54. Under cross examination, Mr Love was asked about his relationship with the media and it was put to him that, with the assistance of others, he was trying to liken himself to Gary McKinnon and that he has exaggerated his symptoms to the professionals, which he denied. Although he has been diagnosed with AS for over 6 months he has not taken antidepressants because they are not for AS. He denied seeking to promote his personal difficulties as a shield.
55. **Sylvia Royce** gave evidence over Scopia. She is a lawyer and member of the Bar of the District of Columbia and of the Bar of the United States Supreme Court. Between October 1995 and August 2000 she was Chief of the International Prisoner Transfer Programme, which is part of the Criminal Division of the Department of Justice. She adopted her reports dated 8<sup>th</sup> and 12<sup>th</sup> February 2007 (tab 16) which she prepared for the case of Gary McKinnon. Her knowledge of prisoner transfers is up to date. In 2016 she had two cases involving applications for transfer to the United Kingdom which were both refused. The prosecutor's position is the single most important factor in the decision for prisoner transfer and there is an expectation it will be part of a plea bargaining process. She has seen cases where prosecutors will not agree to a transfer without a plea bargain. Prisoners can apply for reconsideration of prisoner transfer 3 years after the original refusal.
56. Under cross examination Ms Royce confirmed the Chief of Transfer makes recommendations to the signatory authority which are usually granted. In this case, it will be Ms Woolf who will make the decision if a request for transfer is made. A prisoner can make a request for transfer within 8- 12 weeks of arrival at their federal prison.
57. A district judge makes the decision about a financial order for restitution. A probation officer undertakes a financial investigation of the defendant but she was unsure what this would involve for a foreign national and was not sure how the representations are weighed when the defendant is a foreign national. There have been

cases where transfer has occurred without a financial order for restitution being in place.

58. **Joshua Dratel** gave evidence. He is an attorney of the State of New York and has been practicing criminal defence law since admission to the Bar in 1982. He is a Senior Fellow for Legal Research at Fordham University Law School Centre on National Security. Since 1988 he has been a member of the Criminal Justice Act panel in the South District of New York and in 2007 represented a number of detainees in Guantanamo Bay.
59. He has provided three statements dated 26<sup>th</sup> January 2016, 25<sup>th</sup> May 2016 and 27<sup>th</sup> June 2016 (tabs 9, 10 and 42) which he adopted. His oral evidence is summarised as follows: Mr Love will not get bail in the United States because he is not a United States citizen has no status in the United States.
60. On arrival he will receive medical attention and then be placed in segregated housing prior to determination of where he will be placed. His first-hand knowledge from a client, about suicide watch, will involve Mr Love being put in isolation rather than receiving treatment. From his experience special inmates watch a potential suicidal inmate and not medical staff. Inmates will say they are not suicidal to get out of solitary confinement. Assurances given by the United States authorities are worthless; judges defer to the prison authorities about mental health issues. There is no policy to stop mentally ill patients being put into solitary confinement.
61. Mr Love's sentence could be either consecutive or concurrent but even with mitigating circumstances he is likely to receive substantial sentences in three jurisdictions.
62. Under cross examination Mr Dratel said he would defer to Dr Kucharski's evidence about what would happen to Mr Love on return to the United States. Mr Dratel was questioned about inmates he mentioned in his statement, and gave the example of his client, Mr Mustafa (Abu Hamza), whose physical disabilities were not being accommodated within the prison estate.

63. The statistics quoted in his statements about suicide rates in BOP facilities has fluctuated over the years; he was unaware if this was because of the way either the data had been gathered or if there was better reporting.
64. He agreed that there was nothing technically wrong in prosecutions being brought in three jurisdictions but it was unusual, given it would be easy to establish jurisdiction in a federal court based on the electronic evidence. Mr Love can apply for the cases to be heard in one jurisdiction, and it will be for the prosecutor to agree joinder.
65. When asked if there was anything wrong in the prosecution asking for a sentence within an applicable sentence range, Mr Dratel said it is the norm for a prosecutor to suggest a judge goes outside the Guideline. He said 97% of cases which fall below the guideline arising in fast track cases and do not relate to family considerations. In his experience he has never seen the Government support a departure in cases other than in fast track cases.
66. If this case is run on the basis that Mr Love acted out of conscience/necessity the judge will follow the law. Three jurisdictions mean “three bites of the apple” and gives the Government a significant advantage. A judge can increase a sentence by imposing consecutive sentences. Sentences imposed within the guidelines are presumed reasonable.
67. **Zachary Katznelson** gave evidence via Scopia. He is a lawyer of 16 years’ experience in the United States and was called to the Bar in the United Kingdom in 2012. He was formerly Senior Counsel and then Legal Director of Reprieve. He has provided two statements dated 26<sup>th</sup> January 2016 and 25<sup>th</sup> May 2016 (tabs 11 and 12). He adopted his statements and his oral evidence can be summarised as follows: He has been conducting research into prison conditions for 10 ½ years. His experience is current.
68. Under cross examination he said it is rare for a judge to depart from the sentencing guideline on mental health grounds unless the Government requests such a departure. A judge may be persuaded to go to the lower range of the guidelines rather than the upper



range. A prosecutor will only charge all crimes they believe they can prove. If there is a plea to some crimes, the guideline will be based on the most serious offence. The guideline sentence is unlikely to change even if a defendant pleads guilty. If all matters fell to be sentenced in one jurisdiction, a defendant could be sentenced on a concurrent basis.

69. A number of cases in which low sentences were passed were put to Mr Katznelson. He could not comment on some as he was unfamiliar with them and said he was not inflating the sentence Mr Love is likely to face. Less than 1% of cases have resulted in judges departing from the sentencing guidelines due to mental health issues, but a judge has the discretion to do so.

70. **Grace North** gave evidence over Scopia. She works in “Starbucks” but identified herself in her oral evidence as a full time prison worker. She said she knew Jeremy Hammond as a friend. He was recently put into solitary confinement because of an error in which contraband was found in a postcard in his possession. Telephone contact is limited and e mails can take time being received but there is no restriction in sending e mails. She said her strong opinions may be coloured by her friendship with Jeremy Hammond.

71. **Marlo Caddedu** gave evidence over Scopia. She is a lawyer and prepared a statement dated 24th December 2015 (tab 29). She said the rules in the United States provide for Counsel to see a client but in reality it is difficult. She also gave evidence about clients being able to access digital evidence whilst in custody. In cases where there is substantial digital evidence the expectation is to undertake a word search for each document. In practice this is difficult to do and to provide to clients in custody with electronic discovery. The Bureau of Prisons do not allow Counsel to take computers into their facilities resulting in documents having to be printed off.

72. She commented on that the case of Mr Budovsky (referred to in the prosecutors’ statement at para 24, tab 32) was extremely unusual, in which pre-trial documents were downloaded onto individual hard drives and a laptop was made available for him to use in prison. A

court could agree that laptops are brought into a prison but there are no protocols governing this.

73. **Kevin Gallagher** gave evidence on Scopia. He is a computer systems administrator, writer and activist. He has provided one undated statement (tab 31). He is Mr Barratt Brown's public advocate, in the United States and was involved in getting media attention for his case and raising money for his defence. He was not surprised when Mr Brown pleaded guilty because the offence he was originally charged with could have resulted in him going to prison for 100 years. Since 2014 he has had some interaction with Mr Love on line.

74. **Tor Ekeland** gave evidence in person. He is Mr Love's United States Counsel and is admitted in the New York State and several Federal courts. He regularly defends individuals charged under the Computer Fraud and Abuse Act in both criminal and civil cases. His two statements dated 26<sup>th</sup> January 2016 (tab 13) and 23<sup>rd</sup> May 2016 (tab 14) deal with United States Federal prosecutions and the possible effects on Mr Love's liberty and wellbeing before, during and after trial. He told the court that the alleged £13 million loss incurred by the victims of the alleged crimes would be included in the sentencing range and on that figure the sentence would be categorised into the 188 -121 month range. The Guidelines are not mandatory however judges follow them. Under cross examination he said the loss in this case relates to the intrusion of the activity. The civil standard is used at a sentencing hearing. He agrees with Mr Dratel's evidence and said the sentencing guidelines are inherently irrational.

### **FINDINGS OF FACT (NOT FORUM)**

75. It has been accepted by Mr Caldwell on behalf of the Government that Mr Love suffers from Asperger Syndrome (AS) although the nature and degree was challenged. It is clear from Professor Baron-Cohen's evidence, which I accept, that Mr Love is high functioning, has the capacity to participate in a trial and give instructions to his

lawyers. He does not have AS in combination with learning difficulties, attention deficit and language. His AS is a “very severe disability because it causes him to become so absorbed in his interests that he neglects important areas of his life, such as his studies, and even his health” (Professor Baron-Cohen, 7<sup>th</sup> December 2015, tab 4, page 3, para 7).

76. It is also clear from the evidence, and from seeing Mr Love in court, that he is highly intelligent and articulate. Professor Kopleman also comments his “thinking processes are generally excellent” (tab 7, page 14, para 7(iii)).
77. It is not disputed that Mr Love suffers from eczema, which he has had since birth, and which is a partly stress related physical condition exacerbated by his mental health issues (Professor Baron-Cohen, tab 5, page 2, para 4). I have no doubt this causes him severe problems given the evidence from his GP and Mr Love’s own vivid evidence of his daily hygiene routines and his constant urge to scratch. It is not disputed he suffers from asthma.
78. Dr Kopleman’s reports and oral evidence outlined Mr Love’s past psychiatric history and depression, which started in 2004. Mr Love also gave evidence about this. I find Mr Love has suffered from depression in the past and it has got worse since these proceedings began. However I also find that in the past he has not continued to take medication prescribed that could help him with his depression. Dr Kopleman also said more could be done for his depression and suggested he saw an expert in AS and a psychiatrist; his symptoms could be managed by taking antidepressants. In his report dated 26<sup>th</sup> May 2016, he said, “Mr Love has proved very reluctant to engage in psychiatric or psychological treatment in the UK” (tab 8, page 6, para 2).
79. There have not been any incidents of self-harm in the past but I accept Mr Love has experienced suicidal thoughts intermittently, both in the past and now. Mr Love denied any suggestion that he had exaggerated his symptoms and his suicide risk which I accept given the medical evidence.

80. I also accept Professor Baron-Cohen and Professor Kopleman's evidence that he would attempt suicide before extradition to the United States. Both are of the opinion he would be at high risk of suicide. I accept Professor Baron-Cohen's oral evidence that Mr Love's intention is not a reflection of a voluntary plan or act but due to his mental health being dependant on him being at home with his parents and not being detained for an indefinite period.
81. I accept the evidence of Mr Panepinto (tab 34) who is employed by the United States Department of Justice, United States Marshals Services, about Mr Love's transfer to the US being undertaken by the United States Marshals. They routinely transport prisoner with medical/mental health conditions including those at high risk of suicide (page 2, para 9) and I am satisfied any risk in transit can be ameliorated by appropriate arrangements being in place to prevent suicide.
82. I heard evidence about prison conditions and what the United States will do to mitigate Mr Love's suicidal ideology, and about the regime for those inmates suffering from mental health issues and, in particular, suicide risk. I read and heard evidence from Mr Dratel, a United States defence lawyer, who gave general evidence about pre-trial detention facilities in the US and the medical care available to such inmates. He deferred to Dr Kucharski's evidence that Mr Love would be placed on suicide watch. Dr Kucharski has been a forensic psychologist for 30 years and worked for the Bureau of Prisons. I accept he is an experienced clinician and I accept his evidence that Mr Love would be screened as soon as he was admitted into prison, with acutely suicidal inmates being placed on suicide watch; this will happen to Mr Love. He also said "no one commits suicide on suicide watch". However I find the United States can deal with suicide risks and provisions for prisoners with complex mental health and physical needs given I accept the evidence of Dr Lyn, the current Psychology Services Branch Administrator of the Federal Bureau of Prisons, about the facilities provided the BOP both on arrival and thereafter. Once in the United States Mr Love will be

screened within 24 hours and an assessment made of his imminent risk of self-harm. Each psychology department has a full range of services including psychological assessment and suicide risk assessment. If he is found guilty Mr Love will be assessed as to which designated facility he should be sent to and, when one has been found, Mr Love will be screened by medical and mental health professionals on arrival. The BOP can provide medical care for inmates with eczema and asthma. In respect of Mr Love's diagnosis of AS, he will be assigned various workers and a psychology service. The BOP's Suicide Prevention Programme provides that if a psychologist determines an inmate has an imminent potential for suicide, he will be placed under supervision which involves the prisoner wearing a tear resistant gown and tear resistant blanket. In her statement dated 9<sup>th</sup> June 2016 Dr Lyn confirms that, as part of the Suicide Prevention Programme, group and individual counselling services are available for all BOP inmates considered suicide risks (tab 37, para 3) and, although inmates are not ordinarily permitted to use their own physicians or other healthcare providers, any request for an inmate to be examined by a specific physician will be considered by the Warden and Regional Director and Medical Director (para 4).

83. I find there is nothing either unlawful or improper in proceedings being undertaken in three jurisdictions in the United States. The law enforcement agencies and prosecutors in the districts all started separate investigations at different times given the criminal activity happened in a number of districts. I accept such decisions have been made in good faith (Combined Affidavit (undated) of Nicholas P Grippo, Christian Everdell, Jay Prabhu and Ryan Dickey, tab 32, paras 25-33). In fact Mr Love can request the cases are heard in one jurisdiction, subject to the approval of the attorneys in the districts (as above, para 29, footnote 5). Mr Dratel also accepted there is "nothing technically wrong in prosecutions being brought in three jurisdictions but it was unusual".

84. I also find that the United States authorities provide adequate trial preparations for defendants. I accept the evidence set out in the prosecutors' Affidavit that Mr Love will be afforded reasonable opportunity for private consultation with his Counsel; he can apply to be temporarily released from custody for the necessary preparation of his case (which could mean being taken to an interview room where he can meet his lawyer and review any electronic evidence); various methods can be employed including placing discovery on a stand-alone computer for him or to take him to a United States Attorney's Office to review the evidence (prosecutor's statement, tab 32, pages 10 -11, paras 21-23).

85. I was taken through the United States Sentencing Guidelines ("USSG") by a number of witnesses. There was no dispute between them as to the sentence Mr Love might receive. There was also no dispute that, as a matter of law, the USSG are not mandatory but permit a sentencing judge the discretion to depart from a sentencing range and move up and down the guideline. The Government acknowledges Mr Love could receive numerous sentencing enhancements under the Guidelines (as above, page 2, para 5) and each district court could impose consecutive sentences to any other term of imprisonment imposed in other districts but "under the circumstances present in this matter, the Guideline counsel courts to impose concurrent sentences" (as above, page 5, para 11). I also find that if Mr Love pleads guilty upon his arrival in the United States, or if he is convicted and pleads guilty to other matters outstanding in another district, he could have his cases remitted to one court for sentence (as above, page 15 footnote 5).

86. Ms Royce gave evidence about prisoner transfer after conviction and I read Ms Wolff's statements on behalf of the Government. Ms Wolff has been Chief of the International Prisoner Transfer Unit for 16 years. Ms Royce relied on statements made in 2007. In her oral evidence Ms Royce told of two cases she has been involved with in 2016 in which both were denied transfer to the United Kingdom. She did not say why. She said the court would make a decision about

the financial means of an applicant but was unsure what financial investigation could be undertaken for a foreign national. Restitution played a part in the decision for transfer. Any request made for transfer would be sent to Ms Wolff. In her affidavit Ms Wolff confirmed there is a transfer treaty with the United Kingdom. Guidelines have been published setting out the evaluation of transfer applications. Outstanding financial obligations do not amount to an automatic bar to transfer, the ability of a prisoner to pay and the views of the victims are taken into account (tab 36, para 7). I accept her evidence given she has been the current Chief of the International Prison Transfer Unit. An agreement between the United States and United Kingdom exists, a procedure exists for an application to be made and a number of factors are taken into account in deciding a prisoner transfer, which was not dependant on, or primarily based on, the prosecutor's views of restitution, contrary to Ms Royce's evidence.

## **FINDINGS AND DECISIONS ON THE ISSUES RAISED**

### **SECTION 83A - FORUM**

87. I have read the submissions from the parties and heard from them in which they expanded their submissions. I have read the cases of *Dibden v France [2014] EWHC 3074* and *Shaw v America [2014] EWHC 465 (Admin)* contained in the bundle of authorities (tabs 2 and 3).

88. In *Shaw*, Aitkens LJ emphasised two important considerations in connection with the Section 83A (3) factors namely, the court has to bear in mind each of the specified matters individually (and not any others) and it may be that one factor is irrelevant or not present or of little weight or of great importance (paras 40-41). The question is whether it is in the interests of justice there should not be an extradition to a requesting state. In every case the court will be engaged in a fact specific exercise.

89. It is accepted the threshold requirement in section 83A (2) (a) is satisfied because a substantial measure of Mr Love's relevant activity was performed in the United Kingdom.

90. Mr Cooper asked me to look outside the sequence of the Act and put that which he says is the most important consideration first, namely, Mr Love's connection to the United Kingdom and to give it the most weight. I will deal with the specified factors in the order in which they appear in the section:

**(a)** the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur: Most, if not all, of the loss or harm resulting from Mr Love's conduct occurred in the United States as he is accused of stealing confidential information belonging to individuals (including credit card details) from US government computers and private companies. In my view the harm is the stealing of that information with the potential illegal use of the same, irrespective of where or not Mr Love did this for financial gain. It appears he targeted the United States departments and companies as part of his "hactivism" and political activity

**(b)** the interests of any victims of the extradition offence: The victims are the companies and government departments who had their computers hacked into resulting in millions of dollars' worth of damage. There are also individual victims, those whose personal details were stolen. In this case, the US are of the view that "none of the victims of Love's alleged crimes have an interest in this matter being prosecuted in the United Kingdom" (Prosecutors statement, as above, tab 32, page 18, para b). I do not accept Mr Cooper's submissions that the interests of the victims may not be served with a prosecution in the United States given Dr Kopleman's evidence that Mr Love may not be fit to stand trial. That is conjecture at this stage. Dr Kopleman's exact evidence was any refusal of bail is likely to cause a worsening of Mr Love's clinical depression but it was difficult to anticipate if this would affect him and whether he would be fit to stand trial.



**(c)** any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not the most appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence: The Crown Prosecution Service is silent in this case and I agree with Mr Caldwell's submission that the absence of a prosecutor's belief adds nothing to the decision under the interests of justice test and therefore this specified matter is neutral.

**(d)** were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom: I agree, as did Mr Caldwell for the Government that, in this digital age, evidence to prove the offence in the United Kingdom is available or could be made available. However, as already stated there are witnesses who will be required to give evidence. One is the anonymous informant. It is unknown at this time whether he would assist in any prosecution in the United Kingdom and he may not be a compellable witness in the United Kingdom. The Government has said it will call each of the victim organisations, law enforcement officers, forensic evidence and some individual victims whose personal information was stolen. The prosecutor's point out that it would be "substantially difficult to make available to the United Kingdom all of the evidence necessary to prosecute Love, particularly the witnesses the United States anticipates calling at trial" (Prosecutors statement, tab 32, page 19).

**(e)** any delay that might result from proceeding in one jurisdiction rather than another: It was submitted that a prosecution in the United Kingdom was likely to be quicker than in the United States given the involvement of the NCA in the case and they would be at an advanced stage of readiness for trial. The latter suggestion is speculation, because, apart from the NCA executing a search warrant at Mr Love's home address and seizing a number of computers, some of which they could access, some they could not. I do not have any other evidence as to any stage of readiness. In

contrast, the proceedings in the United States have started, evidence has been obtained in three jurisdictions resulting in three Grand Juries issuing Indictments. The United States prosecutors' statement confirms that Mr Love has the right to be tried within 70 days following his first court appearance, unless he waives the same, and, if he is tried in three separate districts, the same time limit applies. (tab 32, para 70). I have also found there is nothing procedurally incorrect in three districts wanting to prosecute Mr Love. Mr Love could also apply for all his cases to be heard under one jurisdiction (certainly for the conspiracy charges) which would reduce delay (as above, para 2).

**(f)** the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard ("in particular") to – (i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and (ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom:

There are no co-defendants. There are over twenty witnesses, all of whom are in the United States. The digital evidence could be given in the United Kingdom but the witnesses reside in the United States and as a matter of desirability and practicality it is easier for them to give evidence in the United States.

**(g)** D's connection with the United Kingdom: Undoubtedly all Mr Love's connections are in the United Kingdom. He is a single man with no dependants. He is a United Kingdom citizen and lives with his parents. He is studying, teaching and working in the United Kingdom. Mr Love has been diagnosed with AS. He also suffers from depression, eczema and asthma. He has the support and stability of his family. The experts agree Mr Love would be at a severe risk of suicide if extradited to the United States. In my view the submission that a defendant's connection to the United Kingdom proved decisive in ensuring other United Kingdom hackers were prosecuted in the United Kingdom is not relevant to Mr Love's personal connections with the United Kingdom.

91. I accept Mr Love's connections to the United Kingdom include his own personal circumstances, his health and his support network, and not merely his connection to the State, as submitted by Mr Caldwell. Some of the evidence in this case is transportable but, in my assessment, those factors do not outweigh the facts that the conduct occurred in the United States, all the victims are in the United States, their interests are best served with the case being heard in the United States and any delay is not known because I do not have any evidence as to how far any investigation has taken in the United Kingdom. What I do know is that evidence has been produced by the United States resulting in three Indictments being issued by three Grand Juries.
92. It is the interests of justice for the case to be tried in the United States and for this reason the forum bar fails.

### **SECTION 91 AND SECTION 87 – ARTICLE 3**

93. I will deal with these issues together as the submissions are broadly the same.
94. Under section 91 a Requested Person has the burden of proving that, because of his physical or mental condition, it would be unjust or oppressive to extradite him.
95. Article 3 provides that no-one shall be subjected to torture or inhuman and degrading treatment or punishment. This is absolute and prohibits extradition if there are substantial grounds for believing that there is a real risk of treatment which violates Article 3. The burden is on the Requested Person to bring clear and cogent evidence to show there are substantial grounds for believing that if extradited, the person faces a real risk of either being killed or being subjected to torture or to inhuman or degrading treatment.
96. I have been referred to a number of cases set out in the Authorities Bundle. I have, in particular, considered the cases of *Turner v Government of the United States* [2012] EWC 2426, and *Polish Judicial Authority v Wolkowicz* [2013] EWHC 102 (*Admin*). In the case of *Turner* Aikens LJ summarised the

propositions derived from a number of previous cases that dealt with the question as to whether the mental condition of a Requested Person who poses a substantial risk of suicide amounts to his extradition being unjust or oppressive or in breach of Article 3 (para 28). A high threshold has to be reached to satisfy the court that Mr Love's mental condition is such that it would be unjust or oppressive to extradite him. As I have already found (para 79-81 above) I am satisfied that there is a substantial risk Mr Love will commit suicide. The evidence of Professor Baron-Cohen and Professor Kopleman is clear; Mr Love's mental condition is such that it removes his capacity to resist the impulse to commit suicide. There will be a high risk he will commit suicide if extradited. This will be prior to removal, in transit and on arrival in the United States. Professor Baron-Cohen warns that to dismiss this would be "a fantasy" (para 28 above). The key issue then is what measures are in place to prevent any attempt at suicide being successful. In the United Kingdom that risk would be lessened if Mr Love were on bail and with his parents. If in custody I have heard of the holistic approach of the United Kingdom prison system from the Reverend Love.

97. On transfer to the United States, Stephen Panepinto, the Deputy Chief of the International Investigations Branch Investigative Operations Division, states the United States Marshals Service will be responsible for Mr Love's transfer (statement dated 20<sup>th</sup> April 2016, tab 34). They routinely transport prisoners with medical and/or health concerns (para 9). He sets out the procedure to be adopted prior to his transfer and if deemed necessary a member of the Medical Support Unit of the USMS could accompany Mr Love during the flight. Medical records and the psychiatric assessments should be given to those who have to accompany Mr Love during transfer. I have found these safeguards are in place to ensure Mr Love does not commit suicide in transit (para 82 above).

98. On arrival in the United States I have also found there are arrangements in place to prevent suicide (para 83). I have carefully considered the evidence of Dr Kucharski and Mr Dratel about what

will happen to Mr Love once he is in the United States and from the Government and find that, despite the differences in the approaches of the United States and United Kingdom to prisoners who are exhibiting suicidal ideology, the preventative measure in place in the United States are effective in preventing suicides.

99. I am also satisfied that Mr Love will receive dedicated mental and physical health care in the United States, as set out in the comprehensive report of Dr Lyn (tab 33) which I accept (at para 83 above). Such care will be available to Mr Love during the currency of his incarceration.

100. I have not been provided with assurances, something raised by Mr Cooper. I do not agree with his submission that absent such assurances Mr Love faces a real risk of being suicide to and inhuman and disproportionate punishment prohibited by Article 3 given my findings regarding the health and mental health care Mr Love will receive in the United States. I have been told of the maximum sentences available and the likely sentence in Mr Love's cases by Mr Ekeland. Certainly the sentencing regime is harsher in the United States than in the United Kingdom for equivalent offences but a number of factors can be taken into consideration at sentencing, as set out in the evidence contained in the prosecutor's affidavit, including the court having the discretion to depart from a sentencing range. The mental health of the defendant may be relevant in this process. Each district has a discretion to impose a consecutive terms to other terms of imprisonment against him (tab 32, para 11). It is for the Requesting State to set its own sentencing policy unless it is disproportionate which, for the reasons stated, I do not find it to be.

101. Mr Love has not shown it will be either unjust or oppressive to extradite and there will be a real risk to Mr Love of being severely ill-treated in a manner sufficiently severe to engage Article 3 for the reasons given above.

102. The challenges under section 91 and Article 3 fail.

## **SECTION 87 – ARTICLE 6**

103. Article 6 safeguards the right to a fair trial. The burden is on Mr Love to show there are substantial grounds for believing that there is a real risk of a flagrant denial of this right if extradited. It is submitted Mr Love faces a real risk of a flagrant denial of his Article 6 right to a fair trial because access to his lawyer will be curtailed, he will have difficulties in reviewing the evidence because computers are not allowed into detention facilities. Ms Caddedu's evidence is that in such situations lawyers may have to print off documents for defendants.
104. The evidence from the United States differs. I accept the evidence from the Government (as set out in para 85 above) which details the procedures in place to allow defendants to have access to computers and/or disclosure and confidential facilities to see and instruct lawyers.
105. Accordingly Mr Love's challenge under article 6 fails.

## **SECTION 87 – ARTICLE 8**

106. Article 8 provides that everyone has a right to respect for his private and family life, his home and his correspondence.
107. In considering the evidence under article 8 I have had regard to the principles in the context of extradition procedures as set out in ***Norris v Government of the United States (no2) [2010] UKSC 9*** and ***HH v Italy [2012] UKSC 25***.
108. The case of ***Polish Judicial Authorities v Celinski and Ors [2015] EWHC 1274 (Admin)*** sets of the approach the court has to take in respect to article 8 cases. In applying the "balance sheet" approach recommended in ***Celinski*** I have to look at the factors in favour of Mr Love's extradition and those factors against.

### *Factors in favour of extradition*

109. There is a strong public interest that the United Kingdom should honour its extradition treaty obligations with other countries.

110. The offences for which Mr Love is sought are serious, they were committed over three districts in the United States over a period of one year.
111. Mr Love targeted computers in the United States.
112. Millions of dollars' worth of damage was caused by hacking into the computers and employee's personal details were stolen.
113. It was submitted by Mr Caldwell that the United States has a proven track record of managing vulnerable persons whose extradition has been ordered by the United Kingdom. The United States authorities are able to meet Mr Love's medical and personal needs.

*Factors against extradition*

114. Mr Love is a United Kingdom national and is 32 years of age (dob: 14.12.1984). He is a single man who lives with his parents. He suffers from Asperger Syndrome, depression, eczema and asthma.
115. He is at high risk of committing suicide if extradited due to his mental health. He has suffered from eczema since birth and the condition is exacerbated at times of stress and anxiety. He undertakes a daily hygiene regime, uses creams and steroids to treat the condition, takes medication and sees his GP regularly.
116. He is not currently taking antidepressants for his depression.
117. It was submitted that suicide prevention in United States prisons would exacerbate rather than ameliorate Mr Love's suicide risk, he is likely to spend a significant amount of time in solitary confinement and he would be isolated from his family which would elevate such a risk.
118. It was also submitted his AS would not be treated properly in the US.
119. The length of sentence he is likely to face.
120. Mr Love is of good character and is working and studying.

*Decision*

121. Mr Love's Article 8 rights are clearly engaged. In balancing the factors for and against extradition I am satisfied that the very strong counter balancing factors required to find extradition would be disproportionate are not found in this case. Mr Love faces extremely serious charges for offences of computer hacking over a period of one year from October 2012 to October 2013. I accept Mr Love suffers from both physical and mental health issues but I have found the medical facilities in the United States prison estate on arrival and during any sentence if he is convicted available to him, are such that I can be satisfied his needs will be comprehensively met by the US authorities.

122. I am satisfied Mr Love's extradition would be compatible with his Convention rights and I send this case to the Secretary of State for her decision as to whether or not Mr Love should be extradited.

District Judge (Magistrates' Court) N Tempia

16<sup>th</sup> September 2016