



Lawyer Takes on the CIA for Spying during Assange visit

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Taylor Hudak (TH):] Hi everyone. I'm Taylor Hudak with acTVism Munich and welcome back to another episode of The Source, a programme where we interview policy experts, whistleblowers, former insiders and journalists to discuss issues often left out of the mainstream media. Today, we welcome a special guest, attorney Richard Roth. Richard Roth is the lead attorney suing the CIA and three other defendants on behalf of four plaintiffs who visited Julian Assange in the Ecuadorian embassy in London. The complaint, which was issued in August of this year, alleges that the four plaintiffs rights under the Fourth Amendment were violated. Attorney Richard Roth joins us today to take us through this case and explain to us what is at stake and if this particular lawsuit in the United States could have any impact on the broader extradition proceedings taking place in the UK. Attorney Richard Roth, I want to thank you for joining me today, and it's a pleasure to have you here.

Richard Roth (RR): Hey, Taylor. Thank you for having me.

TH: So this lawsuit against the CIA, Mike Pompeo, UC Global or Undercover Global and the CEO of UC Global, David Morales, was filed back in August of this year. It is now mid-October, are there any updates with this case?

RR: As you know, litigation does generally proceed in a snail's pace, we are in the process of serving both Mike Pompeo and the CIA in the US and we have located UC Global and Mr. Morales. Those are the four defendants. And we have not effectuated service, but it's in room.

TH: Can you give us a little bit of a background on this case as far as who the plaintiffs are and what they are suing these four defendants for?

RR: Sure. So it's somewhat of a lengthy story; I'll make it very simple. Julian Assange was in the Ecuadorian embassy in London for, I want to say, probably close to seven years. During that time period, he was seeking asylum because the US wanted to extradite him for what it believed is a criminal conduct, although there was never really a formal indictment issued until the Trump administration. During the seven years that he was there he had obviously several visitors. He had friends. He had family. He had doctors. He had journalists, he had lawyers. And what we learnt was that in around 2017, shortly after Mike Pompeo became the director of the CIA, Mike Pompeo, essentially, his goal was shutting down Julian Assange. For a whole other conversation, which I'd love to have with you as to whether he'd not, Julian Assange, did anything wrong but in connection with that goal, he essentially implemented a series of acts which were, we believe, in violation of the US Constitution. The day that he was sworn in as director of CIA in April 2017, Pompeo, for some reason in that speech, said that Julian Assange and WikiLeaks, the company that he obviously created and is the founder of and is the principal person of, is a non-state, hostile intelligence service. So what he did by categorising, by labelling it, WikiLeaks as a non-state, hostile intelligence service, it essentially gave him what he believes was the ability to do investigative services, an interrogation of WikiLeaks. And in fact, in the same speech, he called Assange a narcissist, a fraud and a coward. For some reason he didn't like him, we don't know the background to this. So what happened was shortly thereafter, he communicated with this company, UC Global, and came up with a scheme to do two things that we believe are illegal. One is that when anyone went to visit Julian Assange in the embassy, no matter who it was, you had to hand over your phone, your laptop, your tablet, whatever device you had, which is common, and have them store it. Unbeknown to everyone there, UC Global with the CIA's blessing, essentially took all of the phones and laptops and imaged them. So anything and everything on my phone, if I went in, would be in the possession of the CIA. The second thing they did was they actually set up microphones and cameras in the conference room where Julian Assange was meeting people to essentially gather information about him. So those are the two things that there are several problems with. Number one is that it's illegal search and seizure. You can't go in, if you're a US citizen no matter where you are in the world, you cannot go in and just take their property and record them without a search warrant. And they did everything of the ilk. And what's even worse is that, think about it, lawyers and doctors went in to Julian Assange in the embassy. So doctors who are prescribing medicine, who are talking about very confidential things, are in the possession of the CIA. Lawyers who have attorney client communications with Julian and with others on their laptop that's all in the possession of the CIA. So the lawsuit essentially, with the long winded answer, the lawsuit essentially is to hold Pompeo and the CIA and their agents liable for wrongfully stealing this information.

TH: At the heart of this case is the Fourth Amendment of the US Constitution. The four plaintiffs are claiming that their Fourth Amendment rights and privileges were violated. For

our European viewers who are not too familiar with this amendment. Can you explain to us what rights and privileges are asserted in the Fourth Amendment?

RR: Sure. So what the founding fathers of the United States did was they, along with the Constitution, there are several amendments to the Constitution which essentially give individuals rights and privileges. One of them, the Fourth Amendment, essentially protects people from unreasonable searches and seizures by the government. So if I'm sitting in my office, the government can't just come in and ransack my office and take things without a process, without a search warrant from a judge. It's no different than them taking my phone if I'm on foreign soil, and it's no different than them listening to conversations I have when I'm at the embassy. So the Constitution protects individuals from getting that improper search and seizure. The way to do it is you go to a judge, you say, Your Honour, I have probable cause that there's a crime being committed, and the judge will either grant or deny the search warrant. So that's essentially the way to do it. So the reason why it's only US plaintiffs is because they are protected, whether it be in the US or elsewhere from this unreasonable search and seizure that the CIA actually was involved in.

TH: Certainly. Now, of course, there is a separate judicial process taking place in the UK right now, where Julian Assange is unfortunately very close to facing extradition to the United States. Home Secretary Priti Patel did approve the extradition order and now Julian Assange's legal team has submitted its perfected grounds of appeal to the UK High Court. I know that you have received this question before, but I do want to ask you again, how does this case in the United States potentially impact the extradition case?

RR: So I don't think, unfortunately, this will affect it except for public perception. The world is starting to learn that all Julian Assange was, was an investigative reporter. Remember, the claim against Assange is that he asked for or sought information from people that stole it. What he did is no different from what The New York Times did. Now, in this instance, he was provided this information, he published it. The Pentagon Papers is a perfect example where The New York Times got information which was illegally obtained and published it. But if and when it comes into the possession of the press, the press really should not have any kind of problem. Their whole goal is to get information. There's no difference when The New York Times got Donald Trump's tax returns. That was improperly obtained but delivered to The New York Times. Like CNN and FOX, that's their goal. So he really should not be tried for this alleged violation of the Espionage Act. So what I think this case is doing is bringing awareness to people like you who are investigative reporters, to people who are common citizens and saying, why are they going after a publisher, if that's all he did? Now, if he did hack into computers, if they can prove he hacked into computers, I obviously don't have the knowledge or that he was intimately involved in the stealing of information, then yes, you can't do that. But if all he did was publish, then he should not. And this case is bringing that to the forefront. And there's a big undercurrent of not only the press, but of just many, many people, both Democratic and Republican, who are saying, why are you trying Julian Assange,

if all he was is a reporter? So that's, I think, where it's going. I don't think the result of this case will necessarily affect the results of that case other than what I just said and the fact that the CIA is really acting improperly.

TH: Yeah. So one of the reasons I asked that question is because this information related to the UC Global spying operation, which was really done by the CIA, of course, UC Global was a private security firm that was contracted by the CIA to do this work and to spy on Julian Assange, his visitors and others at the embassy. We know that the lower court judge, Vanessa Baraitser, was aware that this took place and she still did not use that information to block the extradition. Of course, she did eventually rule against extradition, but that was for other reasons, specifically related to Assange's health conditions. And she found that it would be oppressive to extradite Assange to the United States under Section 91 of the UK Extradition Act of 2003. And then also the UK High Court judges on appeal chose to overturn that ruling of the Lower Court judge. They also had this information. They knew that this spying operation took place, but it had really no bearing on their decision to show that Julian Assange would not receive a fair trial in the United States. So what do you think could happen here? Do you think that there's a chance that perhaps the UK judiciary could see this case that you have brought forward and maybe think perhaps this man, Julian Assange, will not receive a fair trial in the United States. Because that is part of the defence strategy in an extradition case and that's sort of the stance that they took in the UK.

RR: Yeah. First of all, your analysis is impressive. I mean, you're absolutely 100% right in everything you're saying. I don't think it will have an effect because the government is out on a mission. The only reason why it may have an effect is because think about it; Julian Assange is sitting in the embassy with his criminal counsel preparing a defence to this indictment, unbeknown to him, at the same time, the CIA and the US Department of Justice is actually listening to the conversation. So there certainly could be documents excluded. It certainly is a very bad stain on the government to be listening to your adversary and getting information from their playbook. I still think he's going to be indicted. And unfortunately, it's in a very, very tough district in Virginia; federal district court. But I do believe once he's indicted, I'm hopeful. And I don't think I'm too optimistic that the groundswell of support will continue to grow. And that's the way that this case and other things out there can help Julian Assange. But if, in fact, he's just a reporter, then why the heck has he been indicted?

TH: Exactly. You make a really great distinction there, and that is that Julian Assange acted as a journalist. He is not a whistleblower. And that's an important point that people need to be aware of. As far as this particular case, there seems to be that there could be challenges with regard to your case. Do you fear that the United States government, or rather the defendants, could invoke state secrets privilege when trying to put forth evidence during discovery, for example?

RR: They're going to invoke every type of privilege and make every motion they can. They do not want this out, especially when Pompeo, as we understand, is going to announce he's running for president. So there will be a fight here. Pompeo was subpoenaed. And I should mention there's a parallel case in Spain, in Madrid, which I failed to mention, in which they've gathered a lot of evidence to essentially substantiate the theory that UC Global was hired by the CIA. As I understand it, Pompeo and the CIA, Pompeo in particular, was subpoenaed to produce documents. They refused to do so. So they're hiding the ball in Spain. And what we've learnt in Spain is that there are affidavits from individuals who thought they were just gathering information, saying, Why am I sending this to Washington, D.C.? If he is just in the embassy in London, why is any of this going so? I think that this is also a stain on the government. I think the government really should not act this way. And again, if in fact, like you just said, if he's a publisher, if he's a reporter, then why is he being indicted? The irony is that two weeks ago, when Donald Trump received the subpoena for Mar-a-Lago, Rand Paul announced that he believed the Espionage Act, the very act that Assange has been indicted under, should be thrown out, should be vacated. So it's interesting to see where this will play. It's sad because the man sat in an embassy for six years, he couldn't leave. Now he's in mandatory confinement or wherever they call it, in London. And if he was just a reporter, it's really, really unfortunate the circumstance he's going through.

TH: It is. And in fact, UN Special Rapporteur on torture, Nils Melzer, found that Julian Assange has been subjected to psychological torture and yet this prosecution continues and his confinement and the imprisonment continues. So there's definitely a human rights aspect to this case. You mentioned Mike Pompeo, who is one of the defendants in this case, and I understand he is being sued as a private individual. Does that put any additional pressure on him to comply with this court case? Because I do not think that he has complied with the Spanish case.

RR: It doesn't put pressure on him to comply with the Spanish case. But the difference here is that he is a US citizen. And the bottom line is if he does not comply with what a federal court judge says, a judge who was appointed by the president of United States, we actually have Judge Koeltl, who's been a judge for a very a very long time, that he could be subject to serious contempt proceedings, even imprisonment. So he will have to comply with this case. We're going to have to get over some legal obstacles. But we will do so. We will do so. The evidence here is pretty overwhelming.

TH: I want to talk about the district that this case is being tried in, and that is the US Southern District of New York. Why did you choose this particular district?

RR: We chose it primarily because our plaintiffs reside here. One of our plaintiffs is a woman named Margaret Kunstler, who was the wife of the former very well-known lawyer William Kunstler. In any event, he was a lawyer in the Chicago Seven back in the 1960s. He died in the 1990s. But she's a plaintiff. Another woman, Deborah Hrbek, is a plaintiff. She's a New

Yorker. And then on top of all that, everything went through New York. Pompeo, when he gave his speech, was in New York, UC global would send the information to New York as well as Washington,. So New York is a nexus for a couple of reasons. One is that the parties reside here. And two, is that a lot of the transactions and occurrences were right in the Southern District of New York.

TH: Just to bring it back to Mike Pompeo briefly, you mentioned the very famous, I guess, well-known speech that he gave or press conference rather, in 2017. This was right when he was appointed to be the director of the CIA. He gave this speech where he referred to WikiLeaks as a non-state, hostile intelligence agency. He said some pretty negative remarks about Julian Assange himself. How did this speech influence the attitudes and perceptions of WikiLeaks and Julian Assange amongst members of the intelligence community? Because we know shortly after that this spying operation took place. And then also too, Yahoo!News reported that there were serious plans to also assassinate Assange. So how did Pompeo's rhetoric really influence other members of the intelligence community?

RR: Well, so Pompeo at the time ran the CIA and Pompeo in that same speech said, we are going to embark on a long term campaign to shut down WikiLeaks. I've heard of the assassination that was reported on Yahoo!News. That is crazy if the government is actually trying to assassinate somebody. But that's what Pompeo did. He said, we're going to engage in a long term campaign to try to shut this non-state, hostile intelligence company down. And it is just crazy. It's absolutely crazy that he would do this. But he said, I'm going to engage in a long term pattern. And surely after that, he met with UC Global in Las Vegas. We have tremendous evidence. This is not conjecture. There's a lot of evidence on here; with David Morales and decided to essentially spy on not only Julian Assange but on anyone and everyone who went into the Ecuadorian embassy. So it's pretty outrageous that they're doing it. What we want is we want it back, we want any documents they got back. And we want damages for the plaintiff. I don't know the reason for it, but there's no question that through all the affidavits we have and all the documents we've obtained, that there was a long term campaign to essentially shut down Julian Assange.

TH: What do you say as a lawyer that this spying operation constitutes as a violation of attorney client privilege as well as doctor client privilege? I know it's not referred to as that, but your medical records and your meetings with your doctors are meant to be a private environment. That is not what happened for Julian Assange. So is this sufficient to throw the case out of court? Because we know that in the case of Pentagon Papers whistleblower Daniel Ellsberg, it was sufficient to throw his case out of court because his meetings with his psychiatrist were being spied upon and his case did not go forward. Is there any similarity here?

RR: Absolutely. It is the doctor patient privilege. And there's the doctor patient privilege and the attorney client privilege. And so anything that they obtained was illegally obtained. You

can't take doctor patient information. You can't take attorney client information. What's worse, as I said, is they took the criminal lawyer who represents Julian in his criminal defence of the government. So we do believe that all of that will be that a Federal Court judge is going to be very upset. We say it mildly, that the US government has been engaged in that conduct and I believe all of that will come out. All of that will be removed because it's just not something the government should have. Not only that, but think about it; if they went and they imaged Margaret Kunstler's computer and her phone and her laptop, when she went in, then not only did they have attorney client communication with Assange, but they have attorney client communication with any client she had. So it's outrageous that it was done this way. And we do believe that through the federal processes, we can have all of that taken out and returned to the appropriate people.

TH: As a last question, I want to ask you if there is anything else related to this particular lawsuit that is maybe not yet public that you can share with us. Of course, I know you have to keep a lot of information very private to ensure the integrity of the case, but is there anything else you could let us know that maybe isn't public or known yet?

RR: Right now, there's nothing. We do have a mountain of information and there is nothing. I'd love to come back on your show, we'll certainly let you know when anything happens- what we can let you know as you said. I sort of have to keep my lips sealed because there's information which I just can't disclose, which is part of our relationship and our going forward investigation. But I will tell you that the four plaintiffs are the tip of the iceberg, that there are hundreds of people that went into that embassy. And we've received communications from several of them who have said they want to join in the lawsuit. Now, if they're not US citizens, they can't join in. But we could very well add different people to this lawsuit, because what was done here, as I said, was just, it's just remarkable. And it's just not the way the US government should act.

TH: Certainly. And I look forward to having you back to discuss any updates that you may have on this case. Attorney Richard Roth, thank you.

RR: Thank you, Taylor.

TH: And I want to thank all of you for watching this video. Please be sure to share it on your social media. And while you're at it, please make sure that you are subscribed to acTVism Munich's YouTube and Rumble Channels. And check us out on Telegram at acTVism Munich official. Also, please remember that acTVism Munich is a fully independent organisation. We do not take any corporate or governmental money, so please be sure to donate so we can continue with our independent news and analysis. I'm Taylor Hudak with acTVism Munich and I'll see you all next time.

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