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Hacker wins court review decision

British hacker Gary McKinnon has won permission from the High Court to apply for a judicial review against his extradition to the United States.



Gary McKinnon says he was looking for classified documents on UFOs

The 42-year-old from north London, who was diagnosed last August as having Asperger's Syndrome, has admitted hacking into US military computers.

His lawyers had said Mr McKinnon was at risk of suicide if he were extradited.

Lawyers for the home secretary had argued against the review, saying the risk to Mr McKinnon's health was low.

Fresh challenge

Lord Justice Maurice Kay and Mr Justice Simon ruled that Mr McKinnon's case "merits substantive consideration" and granted him leave to launch a fresh challenge at the court in London.

His lawyers had previously told the High Court that if he were removed from his family and sent to the US, his condition was likely to give rise to psychosis or suicide.

The condition was not taken into consideration by Home Secretary Jacqui Smith last October when she permitted the extradition.

However, her lawyers said she acted within her powers.

The judges said that although Ms Smith's decision might be found to be "unassailable", Mr McKinnon had an arguable case that should be tested in court.

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Mr McKinnon, who is from Wood Green, has always admitted hacking into the computer systems in 2001-2 - which the US government says caused damage costing \$800,000 (£550,000).

“ We have always been outraged by the Home Office's decision to have him extradited to stand trial in a foreign land where he would face an out-of-proportion sentence for what is essentially a crime of eccentricity ”
Janis Sharp
▶ Profile: [Gary McKinnon](#)

He hacked into 97 government computers belonging to organisations including the US Navy and Nasa.

He was caught as he tried to download a grainy black and white photograph which he believed was an alien spacecraft from a Nasa computer housed in the Johnson Space Centre in Houston, Texas.

Mr McKinnon was easily traced by the authorities because he used his own email address.

He has always said that he had no malicious intent but was looking for classified documents on UFOs which he believed the US authorities had suppressed.

He has signed a statement accepting that his hacking constituted an offence under the UK's Computer Misuse Act 1990.

Mr McKinnon's mother Janis Sharp relayed the news to her son after the hearing.

She said: "We are overjoyed that the British courts have shown sense and compassion by allowing our son Gary, a young man with Asperger's syndrome, this judicial review.

"We have always been outraged by the Home Office's decision to have him extradited to stand trial in a foreign land where he would face an out-of-proportion sentence for what is essentially a crime of eccentricity."

Mr McKinnon has said he believes he will get a fairer trial in the UK and that he found the situation stressful.



"I am very controlled,

Mr McKinnon and his mother Janis say he should be tried in the UK
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which is probably not a good thing, but inside the fires of hell are burning. It's not a good place to be," he said.

Those with Asperger's Syndrome commonly become obsessed with certain activities and interests and have a level of "social naivety" when it comes to evaluating the consequences of their actions.

Prof Simon Baron-Cohen, who diagnosed Mr McKinnon with the condition, has said of the hacker's actions: "We should be thinking about this as the activity of somebody with a disability rather than a criminal activity."

Mr McKinnon's legal team have sent a request to the Director of Public Prosecutions (DPP), Keir Starmer, asking for him to face trial in the UK rather than the US.

'End this fiasco'

The home secretary has agreed to postpone Mr McKinnon's extradition until the DPP gives his response to the case in four weeks.

However Liberal Democrat home affairs spokesman Chris Huhne called on the home secretary to "end this fiasco" and try Mr McKinnon in the UK.

He said: "Gary McKinnon's condition should mean he is treated more leniently than otherwise. Being detained at a high-security prison, even while only on remand, is hardly necessary for a hacker who had no malicious intent or previous conviction."

If the DPP is persuaded to try Mr McKinnon in the UK, the hacker would face a three to four year sentence, rather than a potential 70 years in US courts.

Mr McKinnon's full application for judicial review is likely to be heard after 16 March, by which time the DPP is expected to have made his decision.

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