

**EXHIBIT TO THE
WITNESS STATEMENT**

OF

BJORN HURTIG

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

Criminal Procedure Rules 2010, Rule 27)

EXHIBIT B/H-2

FÖRSVARSAADVOKATERNA

VÄST

Mark Stephens

Finers Stephens Innocent LLP

14 December 2010

Dear Mark,

You have asked me to clarify a number of matters in relation to the bail application being made on Mr. Assange's behalf on 14 December 2010. I have been informed that in all probability I will be asked to provide a statement about this case at a later stage. In this letter I deal only with the issues pertinent to his bail application.

1. My name is Mr. Bjorn Hurtig. My date of birth is 27/7/1965. I am a Swedish lawyer, having been admitted to practice in 1995. I have been practicing in the field of criminal law for the past 15 years.
2. I am the defence counsel for Mr. Julian Assange in relation to the criminal investigation against him in Sweden.
3. I have been asked to clarify five matters.
4. First, I have been asked my opinion about the strength of the case against Mr. Assange in relation to the allegations made in the European Arrest Warrant. In my opinion, having studied the case-file, as well as other material which I was permitted to inspect but not to take copies or notes of (sms/text messages from the complainants' mobile telephones), the case is one of the weakest cases I have ever seen in my professional career. Even leaving to one side evidential problems, I can see from the sms/text messages, in which the complainants speak of "revenge", obtaining money and talking about Mr. Assange in the press, that they may have a hidden agenda, which casts serious doubt on their accusations and their trustworthiness.
5. I should add here that I have not been provided with the complete case-file relating to Mr. Assange. There is no requirement under Swedish law to provide the full case-file, but it can be requested, and I have requested it in writing and orally. I have been refused access to this file orally by Ms. Ny, the Swedish Prosecutor. I know that the full file contains extremely important exculpatory material, for example showing fundamental inconsistencies in the complainants' accounts of the key events.
6. Second, I have been asked about the likely outcome of the proceedings if Mr. Assange is extradited to Sweden. In my opinion, it is highly uncertain whether Mr.

FÖRSVARSAADVOKATERNA

VÄST

Assange will be prosecuted at all, if extradited. If prosecuted, I consider it highly unlikely that he will be convicted. If convicted, he would be likely, in light of the nature and detail of the allegations themselves (the lack of any threats or physical violence, the consensual sexual relations between the complainants and Mr Assange before the incidents and, in the case of Anna Ardlin (her evidence on this point is contradictory) after the incidents, and his personal circumstances, to receive a suspended sentence. In the extremely unlikely event that he would receive a sentence of immediate imprisonment, I would estimate a sentence in the range of 8-12 months, which would in practice, with two-thirds remission of sentence under Swedish law, mean a sentence of 6-8 months actually being served (with credit, of course, being given for time spent in custody in the UK).

7. Third, I can confirm that the Swedish Prosecutor has made several remarks in the media to the effect that she is just seeking Mr. Assange's extradition to Sweden in order to hear his side of the story. It is my opinion that, having heard that side of the story, she may well decide not to press ahead with the case.
8. Fourth, I confirm that under Swedish law (Chapter 6, paragraph 1), there are, essentially, three categories of rape: "gross rape" which carries a penalty of 4-10 years' imprisonment, "ordinary rape" which carries a penalty of 2-6 years, and "not gross (this might be described in the English language as "minor rape", although I do not know if there is any equivalent offence in English law) which carries a maximum penalty of 4 years (with no minimum penalty). The Prosecutor sought an arrest warrant in respect of "ordinary rape" for the offence against one of the complainants. This allegation was downgraded by the Court of Appeal (*Svea Hovrätt*), without adjudicating upon the merits, on 24 November 2010 to "not gross/minor rape", i.e. the least serious category of rape under Swedish law. Minor rape in Swedish law is sexual intercourse when there is almost no violence or threats or injury, and can be charged in situations where consensual sex is followed by sex without withdrawal of that consent but where the complainant is asleep or unconscious.
9. Fifth, I can confirm that on behalf of Mr. Assange I have been trying for many weeks to arrange for him to be questioned by Ms. Ny, including by Mr. Assange returning to Sweden for questioning. All these attempts have been rebuffed by her. It is here useful to set out a brief chronology.

- On 20 August 2010, the complainants went to the police.
- On 1 September 2010, Ms. Ny re-opened the case, although she had not sought to question Mr. Assange and the case had already been dropped already by another senior Swedish Prosecutor. At this point 10 days had elapsed since 20 August 2010.

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FÖRSVARSAADVOKATERNA

VÄST

- On 8 September 2010, I was appointed to represent Mr. Assange. I immediately asked Ms Ny whether she would hear Mr. Assange's story. She said words to the effect of "Not right now"
- On 14 September 2010, I requested by e-mail the documents relevant to Mr. Assange's case to be disclosed to me. My request was subsequently denied. On the same day and in the same e-mail, I asked whether Mr. Assange could leave Sweden.
- On 15 September 2010, Ms. Ny phoned me back in relation to my request. I asked if she could question Mr. Assange right now. She said no. I asked why not. She said that the police officer was sick. I said that there were many police officers in Sweden, so could she not use another police officer. She said that the officer was the only one she could use. I then asked if Mr. Assange could leave Sweden. She confirmed that he was free to leave Sweden.
- Then I asked her repeatedly to arrange for her to interview Mr. Assange.
- Finally, on 30 September 2010, I spoke to Ms Ny's assistant, Ms. Erika Lejnefors (Ms L) and offered 9-10 October 2010 as dates for Mr. Assange to travel to Sweden to be interviewed because he had other commitments abroad prior to that. I suggested Sunday, 10 October for the interview. She was not keen because it was the week-end and asked if he could come in the following week. I said that was no problem.
- I subsequently phoned back the following week. Then, however, when I phoned back and spoke to Ms L, she said that she had spoken to Ms. Ny who had said that those dates were too far ahead.
- I relate this because I found it strange that, having allowed weeks to elapse without hearing Mr. Assange's side of the story, despite all his offers, Ms. Ny should then decide that it was "too late" to hear his side of the story. It is particularly strange given that he was no longer in Sweden – having been told by Ms. Ny that it was alright for him to leave – and I wondered why there should be such a rush at that stage, so that it was considered too late to interview him a mere 9-10 days later.
- The summons to court was not issued until 18 November 2010. Again, in that context, I question how it could have reasonably been considered too late to interview him in early October, when the summons did not come until November.

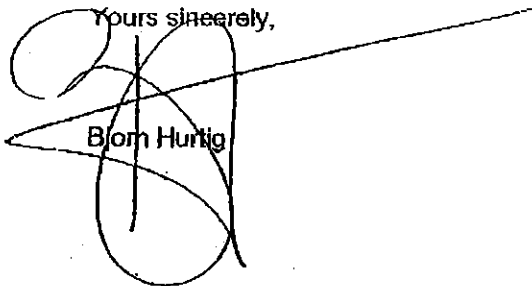
FÖRSVARSAADVOKATERNA

VÄST

- All of this suggests a strange approach on the part of the Swedish Prosecutor. This is compounded by the fact that at the summons hearing, the Prosecutor wanted Mr Assange to be put in isolation, for the reason that he might contaminate the ongoing investigation. This is inconsistent with her approach which had been to allow him to go so long without being questioned and without seeking to have him arrested. The principle is that if a person is to be put in isolation to prevent contamination of an investigation, it should be done immediately.
10. There have been many inconsistencies and admitted improprieties in the Swedish Prosecutor's dealings with Mr. Assange thus far. It was outrageous, and contrary to our laws, to release his name at the outset so that a tabloid newspaper could break the news of the rape investigation. The prosecutor who did this is now herself under investigation. Furthermore, it is highly unusual for a prosecutor of the seniority of Eva Finne to be supplanted in an investigation by another prosecutor. This decision was brought about by the complaint of the women's lawyer, Claes Borgstrom. I also think it unreasonable in a case of this kind, where extensive mutual assistance between the UK and Sweden would readily permit a video-link interview, for the prosecution to be so absolutely insistent that Mr. Assange return (and at his own expense) to face questions that could easily be put over the video-link. I note that at least one of the complainants have been interviewed by telephone and the insistence that Mr Assange come back to Sweden merely for an interview is, therefore, unreasonable, and contrary to a decision of our Supreme Court (*NJA 2007, p. 337*).

I trust that this clarifies your questions for the present. Please do not hesitate to contact me if there is anything further.

Yours sincerely,



Björn Hurtig