

**Lauri Love** is a 32-year old, Suffolk-based electrical engineering student with British and Finnish dual nationality. His case raises concerns about Britain's willingness to extradite vulnerable citizens to face potential life-long jail terms in conditions far worse than would be countenanced domestically. Love's case is a key test for the effectiveness of changes to extradition law brought after Gary McKinnon's extradition was blocked in 2012.

### **Extradition to the United States**

Lauri Love is appealing against extradition to the United States for his alleged involvement with the online protests that followed the suicide of American computer scientist Aaron Swartz. Websites belonging to several US governmental agencies were compromised during #OpLastResort in early 2013.

Lauri's case represents **the first proper test case for the forum bar**, introduced into law in order to protect vulnerable British defendants from being extradited "in the interests of justice" when their cases could be heard at home instead.

On 16 September 2016, District Judge Nina Tempia accepted the medical evidence that **Lauri Love presents a high risk of suicide**, but nonetheless declined to bar extradition on grounds of forum. Home Secretary Amber Rudd then signed off on the extradition in November, despite the opposition of **114 MPs** who signed a joint letter to then President Barack Obama.

If the threshold for the enforcement of the forum bar is not met in Lauri Love's case, it is very difficult to foresee circumstances in which it could provide real protection for anyone.

- Just like other controversial UK-US extradition cases, like those of Gary McKinnon and Richard O'Dwyer, Lauri Love is facing extradition for **alleged actions which would have happened in the UK** and should be prosecuted here. More than a dozen cases, including those where US informant evidence is involved, have been heard in the UK in recent years.
- Lauri Love has been diagnosed with **Asperger Syndrome**, severe eczema and major depression. If extradited to the United States, he would be denied bail and spend extended spells in solitary confinement, an ocean away from family and friends. District Judge Tempia agreed that the impact of this would be life-threatening for Lauri, accepting the evidence of Lauri's parents and eminent medical experts,
- Lauri Love is facing three separate extradition requests from different US court districts, which greatly increase the potential sentence he risks well beyond anything a British court would order under the Computer Misuse Act – his legal team calculate a **potential maximum sentence of more than 99 years**.
- The US indictments concern vulnerabilities that were **publicly known about for months** before the alleged intrusions. **No real harm** is alleged: the damage figures in the indictments reflect the costs of the investigation and bringing computer systems up to the standard of security that they should have been in the first place.
- In May 2016, District Judge Tempia ruled that the **NCA attempted to "circumvent" statutory protections** and abuse court process in order to force Lauri Love to hand over his encryption keys. There are serious concerns about whether there has been a good-faith attempt to investigate Lauri in the UK.

In November 2017, **73 MPs** wrote to Theresa May and Attorney General, asking them to make representations to the US for jurisdiction to be ceded, so Lauri can have a **Trial At Home**. No such representations have been made to date.

Lauri Love's appealed the decision to extradite to the High Court on **29-30 November 2017** in a hearing that heard statements from human rights organization Liberty and the National Autistic Society. The Court also heard from former top prosecutor Lord MacDonald, who confirmed that Lauri Love has been **targeted for specifically harsh treatment**, and that a trial at home, not extradition, is the norm. If the High Court upholds the extradition, Lauri will appeal to the **Supreme Court**.

**The Courage Foundation runs Lauri Love's official defence fund. Please direct all media enquiries to [courage.contact@couragefound.org](mailto:courage.contact@couragefound.org) / +44 20 3291 3451**

## **Lauri Love appeal – 29-30 November 2017, Royal Courts of Justice**

### **Why does the US want to extradite Lauri and what has happened so far?**

Please see overleaf for a timeline of the case to date. This is also available online at: <https://freelauri.com/timeline>

Legal documents, including the US indictments and the first instance extradition ruling are available at: <https://freelauri.com/legal-documents/>

### **When is the appeal being heard?**

Lauri Love's appeal against extradition was heard on Wednesday 29 and Thursday 30 November 2017 in the Administrative Court at the Royal Courts of Justice, London. The appeal will be heard by the Lord Chief Justice, The Rt Hon Sir Ian Burnett. Judgment is scheduled for Monday, 5 February 2018.

### **What is the basis of the appeal?**

The appeal was granted on the basis that Lauri's case raises "some issues of great importance." Lauri's legal team will argue that the District Judge did not consider the forum bar issue correctly and that extradition would not be compatible with Lauri's human rights, specifically his right to not be submitted to inhuman or degrading treatment and his right to a private and family life. Lauri's legal team will be presenting new evidence to support the appeal.

### **What is the forum bar?**

The forum bar was announced in the wake of the Gary McKinnon case and brought into force in October 2013.

Acknowledging widespread public concern about the way extradition works between the UK and US, the new statutory bar was intended to protect vulnerable defendants by allowing them to question if their case should be heard in the United Kingdom instead. Lauri's extradition case is first real test of the forum bar in circumstances that are substantially similar to McKinnon's. If the forum bar doesn't apply in this case, it is hard to see how it could ever protect anyone.

### **What has Lauri been doing since the ruling in September 2016?**

Before the ruling last year, Lauri had been working with security start up Hacker House. Lauri has been continuing with independent security work since and helped coordinate the volunteer response around the Wannacry ransomware crisis earlier this year. Lauri recently founded the social enterprise Bogaty Hack to formalise a collective volunteer civic response to respond to emergencies like Wannacry and other threats emerging from computer insecurity that threaten infrastructure or commerce in the UK.

In the wake of the extradition ruling, Lauri had to fight to be able to continue his studies at the University of Suffolk. The stress of this, not to mention the ongoing proceedings, has not been easy to deal with and has exacerbated Lauri's existing health problems. It has now been over four years since Lauri was originally arrested.

### **Who are Lauri Love's legal team?**

Love's appeal will be advanced by Edward Fitzgerald QC and Ben Cooper, both of Doughty Street Chambers, who are instructed by Kaim Todner.

### **What happens after the appeal?**

The judges hearing this appeal can decide to grant Lauri's appeal, reject it - with or without granting certification to appeal to the Supreme Court - or send the case back for reconsideration by a District Judge.

**Are there further avenues for appeal after this one?**

Yes - there is a possible, though not automatic, right of appeal to the Supreme Court and the European Court of Human Rights in Strasbourg.

**Where does the 99 year prison sentence figure come from?**

Three US legal experts submitted evidence based on the US sentencing guidelines to Westminster Magistrates' Court for Lauri's extradition hearing in summer 2016. Their joint calculation was accepted by the District Judge. The fact that Lauri has (unusually) been indicted in three US judicial districts serves to make his potential sentence longer than it otherwise would be.

**What has happened to Lauri's property case against the NCA?**

In May 2016, Lauri won a pre-hearing motion preserving the right to hold encrypted information in the UK. The substantive hearing in his case for the return of his property has been adjourned until after the appeal against extradition has concluded.

**Can I arrange an interview with Lauri or his family?**

Lauri Love is not giving interviews before the end of the appeal hearing. For interviews with family members, legal team or key supporters, please contact the Courage Foundation at [courage.contact@couragefound.org](mailto:courage.contact@couragefound.org). We try to accommodate as many requests as possible.

**Are there any images or video I can use?**

Yes. Free-to-use images and video footage can be obtained from the Courage Foundation. Please contact [courage.contact@couragefound.org](mailto:courage.contact@couragefound.org) for more details.

## **Lauri Love case timeline**

### **16 October 2012**

Gary McKinnon's extradition is blocked by Home Secretary Theresa May on human rights grounds. May announces that the UK will be introducing a forum bar:

"This will mean that where prosecution is possible in both the UK and in another state, the British courts will be able to bar prosecution overseas, if they believe it is in the interests of justice to do so."

### **28 November 2012**

Richard O'Dwyer's deferred prosecution agreement is announced, prior to his planned appeal against extradition to the US on copyright-related charges.

### **11 January 2013**

While under federal indictment, prominent developer and internet freedom activist Aaron Swartz commits suicide. His family describe their loss as "the product of a criminal justice system rife with intimidation and prosecutorial overreach" over "an alleged crime that had no victims." The conduct of prosecutors in this case becomes a major public policy issue in the United States.

### **25 January 2013**

Online protest #OpLastResort begins.

### **14 October 2013**

The forum bar is enacted in the UK's Crime and Courts Act.

### **23 October 2013**

A two count indictment against Lauri Love is filed in the District of New Jersey.

### **25 October 2013**

Lauri Love is arrested at his parents' home by the National Crime Agency on suspicion of offences under the UK Computer Misuse Act. 25 items of electronic equipment are seized. He is interviewed by an NCA investigator and released on bail without charge.

### **29 January 2014**

Shortly before Lauri's police bail is due to expire, he is issued with a Section 49 RIPA order, compelling the surrender of encryption keys.

### **7 February 2014**

Lauri Love responds to the RIPA order, through his solicitor, telling the NCA he has no information to provide.

### **21 February 2014**

Indictment against Lauri Love issued in the Southern District of New York.

### **13 March 2014**

Anti-Social Behaviour, Crime and Policing Act removes the automatic right to appeal in extradition cases

### **3 July 2014**

Lauri Love is released from police bail in the UK, but does not receive an official notice of “no further action”. All monitoring restrictions are lifted and Lauri’s passports are returned to him.

### **24 July 2014**

A nine-count indictment against Lauri Love is returned in the Eastern District of Virginia.

### **20 February 2015**

Lauri Love starts a civil action against the National Crime Agency for the return of his property, which he later withdraws.

### **23 March 2015**

Superseding indictment against Lauri Love filed in the District of New Jersey.

### **21 May 2015**

Superseding indictment against Lauri Love filed in the Eastern District of Virginia and an arrest warrant issued.

### **15 July 2015**

Lauri Love is arrested by the Metropolitan Police’s extradition unit and appears at Westminster Magistrates’ Court, where he is released on conditional bail.

### **3 November 2015**

Lauri Love restarts his civil action against the NCA for the return of his property. In a hearing at Ipswich Magistrates’ Court, the case is transferred to Westminster Magistrates’ Court, to be heard by the same judge as Lauri’s extradition proceedings.

### **2 March 2016**

At a directions hearing in Lauri Love vs NCA, the NCA asks the court to direct Lauri to hand over his encryption keys under its general case management authority. It also obtains a reporting restriction. Arguments on the compelled decryption issue are set for a separate, one-hour hearing on 12 April.

### **12 April 2016**

Oral arguments on the compelled decryption issue are heard at Westminster Magistrates’ Court.

### **10 May 2016**

District Judge Nina Tempia rejects the NCA’s attempt to “circumvent” statutory privacy protections by obtaining a forced decryption direction. The NCA’s conduct is widely criticised.

### **28-29 June 2016**

The first two days of Lauri Love’s extradition hearing are heard at Westminster Magistrates’ Court ([day 1](#), [day 2](#), [list of witnesses](#)).

### **25 July 2016**

Final arguments in Lauri Love’s extradition hearing are heard at Westminster Magistrates’ Court ([coverage](#)).

### **16 September 2016**

District Judge Nina Tempia rules to approve Lauri’s extradition, passing the case on to Home Secretary Amber Rudd. Rudd has until mid-November to make her decision.

### **12 October 2016**

Lauri's case is raised at Prime Minister's Questions by David Burrowes MP.

### **24 October 2016**

105 MPs sign a letter to Barack Obama asking him to withdraw the extradition request for Lauri. Later signatures take the total of MPs opposing Lauri's extradition to 114.

### **27 October 2016**

Barry Sheerman MP raises Lauri's case with the Solicitor General during a House of Commons debate on cybercrime.

### **14 November 2016**

Home Secretary Amber Rudd authorises Lauri Love's extradition to the US. His legal team have 14 days to appeal against the order.

### **28 November 2016**

Lauri Love's legal team makes its [application for appeal](#).

### **25 April 2017**

The High Court grants Lauri Love permission to appeal against his extradition to the United States. Human rights organisation Liberty will also make representations in the case.

### **18 November 2017**

73 MPs – including Barry Sheerman, Heidi Allen and Lauri's local MP, Culture Minister Matt Hancock – write to the Prime Minister and Attorney General, asking them to make representations to their American counterparts about Lauri receiving a trial at home.

### **29-30 November 2017**

Lauri Love's appeal against extradition was heard at the Royal Courts of Justice in London.

### **5 February 2018**

High Court to issue ruling on extradition appeal.

## The Forum Bar

The forum bar was announced in the wake of the Gary McKinnon case and brought into force in October 2013. As section 83A of the (amended) 2003 Extradition Act, the forum bar provides that:

- (1) The extradition of a person (“D”) to a category 2 territory is barred by reason of forum if the extradition would not be in the interests of justice.
- (2) For the purposes of this section, the extradition would not be in the interests of justice if the judge—
  - (a) decides that a substantial measure of D’s relevant activity was performed in the United Kingdom; and
  - (b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.
- (3) These are the specified matters relating to the interests of justice—
  - (a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;
  - (b) the interests of any victims of the extradition offence;
  - (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;
  - (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;
  - (e) any delay that might result from proceeding in one jurisdiction rather than another;
  - (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;
  - (g) D’s connections with the United Kingdom.