

Gary McKinnon's extradition case must not be allowed to stumble on

America may feel bolstered in the wake of the Baker review, but Gary McKinnon deserves to be tried in the correct jurisdiction



Gary McKinnon's computer hacking case has dragged on for a decade. Photograph: Linda Nylind for the Guardian

This week, the Conservative MP [Dominic Raab](#) , with the backing of Labour's Keith Vaz and the Lib Dems' Sir Menzies Campbell, will try to win a full Commons debate on Britain's extradition laws. It could not come at a more pertinent time for

[Gary McKinnon](#)

, the computer hacker who suffers from Asperger's syndrome, and whose case has now dragged on for a decade.

Last week, the United States' ambassador to the United Kingdom, [Louis Susman, told the](#)

[Scotsman](#)

that, as far as he was concerned, the battle to stop McKinnon from being extradited to stand trial in the US was "over". He added: "... someone took down our whole defence system in a computer hacking incident. That made us very vulnerable." His remarks came in the wake of the review of extradition procedures carried out by the former appeal court judge,

[Sir Scott Baker](#)

, which gave broad approval to the status quo. Earlier this year, on a visit to London, the US attorney general, Eric Holder, said that "we will continue to take all necessary steps to have him [McKinnon] extradited to the United States and held accountable for the crimes he has committed".

Now, never mind that boring old assumption of innocence to which a defendant is normally entitled, what was clear from Holder's comments was that the pursuit of McKinnon continues. The fact that Susman is seriously suggesting that the US was made "very vulnerable" by a bloke with a computer in a north London bedroom hacking into the Nasa and US defence department computers just shows to what depths this argument has degenerated. Can a "whole defence system" really be taken down by someone looking for evidence of UFOs and leaving a few disparaging remarks about poor computer security?

In January, [Ryan Cleary](#), the Essex teenager arrested earlier this year and accused of computer hacking, will appear at Southwark crown court in London. This follows a lengthy investigation by the British police, working in tandem with the FBI, into international hacking operations. He faces five charges under the [Computer Misuse Act](#), the same act under which McKinnon should have been – and could still be – prosecuted.

In March this year, [Ashley Mitchell](#) appeared at Exeter crown court charged with serious computer hacking offences. He was convicted of having stolen the identities of two employees of the Zynga gaming company, which is based in San Francisco. He was accused of having broken into the Zynga mainframe and having transferred virtual gambling chips, supposedly worth £7m, to himself. It was a calculated criminal enterprise and he was jailed for two years. The point about these two cases is that they both had international ramifications but the actual alleged hacking offences had been committed in the United Kingdom so, logically, that is where they face trial.

When the current government came into power, the process to extradite McKinnon – shamefully allowed to stumble on by a Labour home secretary – was halted. Both David Cameron and Nick Clegg had been supportive of McKinnon's case in the runup to the general election, with the Lib Dem leadership even taking part in demonstrations on his behalf. Home

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secretary [Theresa May agreed to re-examine the case](#) and to have McKinnon's mental state assessed. Now, in the wake of the extradition laws review, it would seem that attempts are being made to bounce her into a decision.

The solution is a simple one: explain to the US authorities that McKinnon's mental condition would make it a serious breach of his human rights to extradite him for what was an embarrassment that has caused no danger or suffering to anyone – apart from McKinnon himself. It is claimed that around \$700,000 worth of damage was caused but the true figure is probably a fraction of this.

The point is not that McKinnon should escape punishment for committing an offence, merely that he should be tried in the correct jurisdiction and one where his case will get a hearing free from the hysteria and paranoia that can sometimes accompany security cases in the US. If May acts now on all the medical evidence before her and halts the extradition procedures, making McKinnon accountable in the British courts – like other alleged international hackers – for what he did in north London, this whole sad tale can be brought to an end.