

Diab loses bid to toss handwriting analysis

Judge finds no abuse of process in French extradition application

BY ANDREW SEYMOUR, WITH FILES FROM CHRIS COBB, THE OTTAWA CITIZEN SEPTEMBER 2, 2010

The lawyer for a university professor accused of a terrorist bombing says he will seek to have the case against Hassan Diab thrown out after he failed to have new handwriting evidence allegedly linking his client to the deadly 1980 blast tossed.

Donald Bayne said he would base his arguments to stay the extradition on the "misconduct of France," promising to bring "cogent evidence" to demonstrate a "very serious failure" in diligence and accuracy on behalf of French officials.

Bayne gave notice to Ontario Superior Court Justice Robert Maranger on Wednesday that he planned to seek the stay at the outset of Diab's November extradition hearing immediately after Maranger ruled there was no abuse of process on behalf of France and allowed them to introduce new handwriting evidence allegedly linking Diab to the Paris synagogue bombing that killed four people and injured 40.

Diab's lawyers had argued earlier this week that the new handwriting evidence, which twice delayed the 56-year-old's extradition hearing, was only introduced after France knew the opinions of their first two handwriting experts were "tainted" after four defence handwriting experts uncovered "appalling" flaws in the first two examiners' work. The French examiners allegedly matched Diab's handwriting to those of the suspected bomber on a hotel registration card.

While frustrated with the timing of France's decision to introduce the new evidence, Maranger said in his ruling that he found no evidence of abuse of process.

France was under no obligation to withdraw the first two handwriting experts' reports when he admitted the defence experts' work into evidence, Maranger added.

"Even taking the applicant's factual allegations at their worst, they do not amount to a complete failure of due diligence on the part of the Republic of France," Maranger said, adding the remedy Diab sought -- to have the handwriting evidence tossed -- was "disconnected" from the alleged abuse.

Following the judge's ruling, Bayne said the latest handwriting expert produced by France was "at least as lacking as the other two" and accused the French and Canadian prosecutors of basing their case on "unsourced and uncircumstanced material."

The matter is expected to resume Nov. 8.

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