

Crown urges judge to ignore 'preposterous' claims that France manipulated evidence against accused bomber Diab

BY CHRIS COBB, THE OTTAWA CITIZEN NOVEMBER 16, 2010



Hassan Diab, right, stands outside the Elgin St. courthouse beside his lawyer Donald Bayne on Thursday, October 22, 2009 in Ottawa. Diab, who was arrested by the RCMP in 2008, is fighting extradition to France on a terrorism charges dating back almost 30 years.

Photograph by: Mike Carroccetto, The Ottawa Citizen

OTTAWA — The week-long effort by Hassan Diab to have the extradition case against him halted, is “a teetering house of cards that won’t be standing much longer” the Crown prosecutor said Tuesday.

Accused terrorist Diab is wanted by France on murder charges stemming from a bomb blast outside a central Paris synagogue 30 years ago.

French authorities say they have enough evidence to try Diab for murder, claiming he both made and planted the bomb.

Four passersby were killed and more than 40 people were injured in the explosion.

Federal Justice department lawyer Claude LeFrançois said claims by defence lawyer Donald Bayne that France had manipulated evidence against Diab were “preposterous”.

“Mr. Bayne has spent five days making his application,” said LeFrançois. “In order to dress something up to make it look like something else, you have to work hard. If we weren’t dealing with such a tragic loss of life I would be tempted to call Mr. Bayne’s arguments laughable.”

LeFrançois said Bayne has essentially accused lead French prosecutor Marc Trevidic of obstruction of justice.

“That is a very serious accusation to level at any of our extradition partners,” he said. “In my 13 years of practice in this area I have never heard anything so sinister directed at a foreign state.”

The prosecutor urged Ontario Superior Court Justice Robert Maranger to reject Bayne’s application and continue with the extradition hearing.

He also took a swipe at Diab, who issued a statement last week declaring his innocence — “though he has shown no desire to go back to France and clear his name.”

LeFrançois and his Justice department colleague, Jeffrey Johnston, will spend Wednesday and Thursday using much of the same case law used by Bayne in an effort to persuade Maranger that while defence arguments might have a place during a Paris trial, they have no basis in Canadian extradition law.

“What message will be sent in Canada and to our extradition partners worldwide if you stay (halt) these proceedings?” asked LeFrançois.

Bayne used the opposite argument earlier in the week, suggesting that if the hearing is not stayed it will send foreign countries the message that they can “deprive Canadian citizens of their liberty” by manipulating evidence.

Johnston accused the defence lawyer of deliberately misleading the court and said his claims that some of the unsourced French evidence might have been gathered from torture was “bordering on the irresponsible.”

The source of much of the French intelligence used in the extradition application is not known, although some came from Israel.

Bayne has said the possibility that torture was used cannot be discounted and if it was, the entire extradition hearing would be in conflict with international conventions on torture.

Bayne has also alleged the French have deliberately withheld evidence.

But the two prosecutors also say Trevidic is under no obligation to send all the French evidence to Canada —only enough to make the case that a reasonable Canadian jury, properly instructed, could find Diab guilty.

The hearing continues Wednesday.

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