

Let experts testify, Diab lawyer argues

Attorney tells court it's not judge's role to 'rubber-stamp' extradition

BY CHRIS COBB, OTTAWA CITIZEN DECEMBER 4, 2010

The lawyer fighting to prevent the extradition of former University of Ottawa professor Hassan Diab has accused prosecutors of wanting to reduce the judge's role to that of a toy dog in the back of a car "whose head goes up and down."

"The judge must act as a judge and not as a rubber stamp," Donald Bayne, who is asking Justice Robert Maranger to allow defence handwriting experts to give evidence at the hearing, said Friday.

Federal prosecutors are opposing the move.

Lebanon-born Diab, 57, is wanted for murder by French authorities for his alleged role in planting a deadly bomb outside a Paris synagogue in 1980. Four people were killed and more than 40 injured.

At issue is crucial French handwriting analysis that is key to the French case against Diab.

The French analyst Anne Biscotti compared handwriting in a Paris hotel registry with samples of Diab's handwriting from U.S. Immigration documents -- he was a student at Syracuse University -- and decided the samples were written by the same person.

Crucially, though, Biscotti noted seven differences that she attributed to "natural variations" she said could occur in anyone's signature.

Bayne says the "natural variations" could be enough to eliminate Diab as a suspect and has reports from three internationally renowned handwriting experts -- from Canada, the U. S and Britain-- who all say Biscotti's report is badly flawed and reveals her ignorance of modern methods.

Earlier in the week, prosecutors Claude LeFrancois and Jeffrey Johnston told Maranger he had no authority under Canadian law to allow the three defence reports into consideration because all the French evidence against Diab had to be presumed reliable.

Allowing Bayne to bring the three experts to testify would be appropriate at a trial, they said, but not at an extradition hearing.

Bayne countered Friday by pointing to case law he said allowed a Canadian sought by another country to challenge evidence that was "manifestly unreliable." This was not the same as trial evidence, he said.

"We are not calling Professor Diab to say, 'I didn't write that hotel card', " Bayne told Maranger. "You

have a judicial duty to have a hearing on whether this evidence is reliable or not."

Maranger is to announce his decision on Monday.

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