

Hassan Diab legal team prepares for crucial hearing to quash extradition order

BY CHRIS COBB, OTTAWA CITIZEN NOVEMBER 2, 2013 6:17 PM



Hassan Diab held a press conference on Parliament Hill to address the latest issues involving his extradition to France for a decades old terrorism case, April 13, 2013.

Photograph by: Wayne Cuddington, Ottawa Citizen

OTTAWA — Lawyers for alleged terrorist Hassan Diab take their case to the Court of Appeal for Ontario Monday in an effort to have an extradition order against the former university professor quashed.

Diab, arrested five years ago this month at the request of French authorities, is a suspect in the 1980 bombing of a Paris synagogue in which four passersby were killed and many inside and outside the building injured.

Dozens of children inside the synagogue narrowly escaped the blast because a service they were attending ran several minutes late.

The former University of Ottawa and Carleton University sociology professor was arrested at the request of French authorities five years ago this month and spent several months in jail before being released on strict bail conditions.

Among the conditions he agreed to in exchange for his freedom was the wearing of a GPS ankle

bracelet that costs his family \$2,000 a month. He has not been able to work since being arrested by an RCMP SWAT team at his Gatineau apartment as he was preparing to go for a run.

Diab, who will be 60 later this month and has no criminal record, says he is innocent and a victim of mistaken identity.

“I am innocent of the accusations against me,” he told the Citizen. “I did not do it. I have never engaged in terrorism. I am not an anti-Semite and have always been opposed to bigotry and violence. I am willing to answer any questions the French authorities may ask.”

Neither French police nor prosecutors have asked to question Diab in Canada and he says the RCMP rejected his offer to take a lie detector test.

Diab’s legal saga has so far included an unprecedented two-year extradition hearing in front of an Ontario judge who said he had no choice but to recommend extradition even though the French evidence would likely be too weak to convict any defendant in a Canadian court criminal court.

Federal Crown prosecutors withdrew French intelligence against the Lebanese-born academic because they were unable to prove that it hadn’t been extracted through torture.

The French were unable say where it came from.

What remained at the end of the extradition hearing was handwriting analysis from a French handwriting expert whose conclusion was debunked by three separate specialists in the field who described it variously as incompetent, “fatally flawed” and in conflict with any known international analytical standard.

But extradition judge Justice Robert Maranger said that under Canada’s extradition law it was enough to turn Diab over to the French — a decision upheld by then Justice Minister Rob Nicholson in what Diab’s lawyer Donald Bayne said was a “dangerous new low” in Canadian law.

Amnesty International, the British Columbia Civil Liberties Association, and the Canadian Civil Liberties Association are all intervening on Diab’s behalf at the two-day appeal hearing.

Aside from what Bayne describes as the “flawed” French handwriting analysis, Diab’s Appeal Court lawyer Marlys Edwardh is also expected to re-introduce evidence she will say shows that the French have not yet completed their investigation into the “Rue Copernic” case and therefore is not ready to put him on trial.

Under Canada’s extradition law, a person can only be extradited to stand trial, not further an investigation.

More troubling, claim Diab’s team, is that the French will re-introduce the intelligence evidence that was withdrawn at the extradition hearing thereby raising the probability of a Canadian citizen being tried on evidence that may have been obtained through torture.

Evidence derived from torture is inadmissible in a Canadian court.

“How can you have a fair trial if you don’t know where the evidence came from?” Bayne told the Citizen.

Crown lawyers have maintained that despite the setbacks, French prosecutors have done enough under Canadian extradition law to warrant Diab’s extradition.

France does not extradite its own citizens.

Through his lawyers, Diab will be asking that Nicholson’s decision to extradite him be quashed because the minister failed to seek assurances from the French that they would not use the intelligence evidence or the ‘flawed’ handwriting analysis against Diab at any trial.

He will also ask that proceedings against him be dropped or that the Appeal Court grant him a new committal (extradition) hearing.

It isn’t known how long the appeal judges will take to reach the decision.

Most extraditions from Canada are to the United States and have become almost routine but the Diab case is unusual in its complexity and potentially precedent-setting to the point some legal experts say it is effectively putting the country’s extradition law on trial.

Irrespective of which side wins the appeal, it seems likely that the case will eventually be decided by the Supreme Court of Canada.

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