

Accused terrorist and family man: Hassan Diab lives in limbo as deportation ruling looms



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*Ottawa academic Hassan Diab learns Thursday whether the Ontario Court of Appeal will quash a lower court decision to extradite him to France, where he is a suspect in a 1980 terrorist attack against a Paris synagogue. Diab and his wife, Raina Tfaily, spoke exclusively to the Ottawa Citizen's **CHRIS COBB** about the impending decision and their life as new parents.*

The stakes were already high for terrorism suspect Hassan Diab but on Thursday, in the form of his cute-as-a-button toddler, they are even higher.

It's been six years since an RCMP SWAT squad came banging and screaming at his apartment door in Gatineau and, at the request of France, hauled him in for questioning and then to jail, where he sat for months until a court agreed to bail — essentially a looser form of house arrest.

Today, as Canada's extradition law demands, the 60-year-old former university professor and Canadian citizen is back in an Ottawa-Carleton Detention Centre cell awaiting yet another legal landmark in his unique extradition saga.

If the appeal court rules in his favour, he will walk free and unhooked from the weight GPS ankle bracelet that adorns his ankle.

It is one of several strict bail conditions.

If the court rules against him, the Lebanon-born Diab will likely be freed on bail pending another appeal — this time to the Supreme Court of Canada, which may, or may not, agree to hear his case.

Oblivious to case and to the accusations of deadly terrorism that hang over Diab, is 16-month-old Jena, the light of the Diab-Tfaily household and the daughter to whom the currently unemployable Diab has been primary caregiver.

Jena faces the possibility of life without a father — a fact obviously not lost on the two PhDs.

“I see it from the other side,” says Diab. “In these tough and hard times she brightens our days and make our lives brighter. Many people might think in the opposite way, but that's how I see it. She is full of joy. She is always full of joy.”

But Diab accepts the possibility that he might be extricated from his Canadian life, never to return

“You can always think this way,” he says, “but with Jena we can think of the future. It’s something beautiful in your life that makes you stronger and makes you want to fight even harder.”

For 35-year-old Tfaily, there was also a practical consideration: Time.

“This case has been going on since 2008 and it might not end any time soon,” she says. “If one waits until all this completely finishes before starting a family it is going to be too late. You want to start a family, but you are also worried about the future.

“It’s not a normal family situation,” she adds, “and going through all these years has not been easy. It’s emotional for all families who pass through a situation like this. But Jena has brought us lots of happiness and hope.”

Although Diab has been the primary caregiver, Tfaily says she has taken over some of the tasks – bedtime duty included – to help soften the impact of separation while her husband is in jail.

(He has two other children from previous relationships – an 18-year-old daughter living in the United States and a 14-year-old son living in Edinburgh, Scotland).

Diab has to plug himself into an electrical outlet for an hour each night to charge the ankle GPS that costs him \$2,000 a month – a fee paid by 100 volunteers who each contribute \$20 month. They call themselves the Hundred for Hassan and are part of a legion of supporters drawn to the Diab cause and who plan to rally Thursday on Parliament Hill.

The bomb attack on Rue Copernic in the centre of Paris 34 years ago left four passersby dead and others injured and chronically traumatized.

A special Bible class for children ran longer than expected, otherwise they would have been spilling out onto the street as the bomb – planted on a motorcycle – detonated.

The attack came at the height of terrorist activity by the Popular Front for the



Liberation of Palestine.

Diab has doggedly maintained his innocence and claims he is the victim of mistaken identity.

None of the perpetrators has been found and the case was cold until a newly appointed French prosecutor decided to push for Diab's extradition.

French authorities have presented little viable evidence against Diab other than intelligence intercepts that might have come from the files of the East German STASI, the secret police.

Canadian federal prosecutors making the case for France were forced to withdraw the intelligence reports because they couldn't prove they were not gleaned from torture.

That left French handwriting analysis comparing Diab's handwriting with words on a hotel register written by one of the perpetrators.

Three internationally renowned handwriting experts called by Diab's lawyer, Donald Bayne, to testify at the academic's extradition hearing all dismissed the analysis as incompetent and produced from no known accepted standards.

Extradition Judge Robert Maranger characterized the handwriting analysis as "convoluted, very confusing with conclusions that are suspect.

"The case presented by the Republic of France against Mr. Diab is a weak case; the prospects of conviction in the context of a fair trial, seem unlikely. However, it matters not that I hold this view. There is no power to deny extradition in cases that appear to the extradition judge to be weak or unlikely to succeed at trial."

In other words, Canada's extradition law does not meet the standards of other Canadian law.

Canadian courts hear about 100 extradition requests a year, mostly to send Canadians to face trial in the United States. Most cases last a couple of days, and in the past 15 years judges have denied only half a dozen of the requests.

Canada has extradition treaties with more than 50 countries, although some European nations, including France, will not extradite their own citizens.

British Columbia lawyer Gary Botting, one of Canada's leading specialists in extradition law, says the current legislation, introduced in 1999, passed Parliament with little debate and stripped Canadian citizens of previously entrenched protections.

"Parliament rubber-stamped it into place and judges have been rubber-stamping it ever since," he says.

What Maranger should have done, adds Botting, was give more weight to a Supreme Court of Canada ruling in a 2006 B.C. case known as Ferras that gave judges more flexibility in rejecting extradition requests.

While the case has evolved into a challenge against the extradition law itself, for Diab the result is, obviously, intensely personal.

"We are hoping that the Court of Appeal decision will fix the error," he says. "The judge (Maranger) himself said there is no prospect of conviction in a fair trial. You can't ask for more before you say, 'Let this guy out.'"

"But you can see all the scenarios before your eyes every day," he adds. "What if? What if? We live on What if."

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