

'We have lost everything': Court upholds Hassan Diab extradition



CHRIS COBB

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Lawyers for terrorism suspect Hassan Diab formally asked the Supreme Court to rule on the case Thursday, just hours after losing an appeal against his extradition to France.

The Court of Appeal for Ontario's unanimous decision is a major setback for the 60-

year-old academic but his lawyer, Donald Bayne, said “We are determined to fight on.”

Diab, arrested six 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 narrowly escaped the blast because a service they were attending ran several minutes late.

It was the first attack against French Jews since the Second World War and became a focal point of political controversy in France.

Shortly before a news conference on Parliament Hill on Thursday, Diab’s 35-year-old wife, Raina Tfaily, left the room in tears, clutching the couple’s 16-month-old daughter, Jena.

“We have lost everything,” sobbed the Carleton University professor.

As required by Canada’s controversial extradition law, Diab surrendered himself to jail Wednesday but is expected to be released again shortly on bail pending the Supreme Court appeal.

In a written statement he said: “It is with great shock that I learned that the Court of Appeal upheld my extradition order . . . such a decision means that any Canadian citizen can be detained, uprooted and extradited based on deeply flawed evidence that a foreign state submits.”

Diab reiterated his claim that he had nothing to do with the 1980 bombing, which he described as “a heinous attack.”

“I have always opposed anti-Semitism, discrimination and violence,” he said.

Extradition judge Robert Maranger said in his judgment in June 2011 that he had no choice under Canada’s extradition law but to order Diab sent to Paris but added the evidence against the 60-year-old academic was weak and below the standards necessary to convict him in a Canadian criminal trial.

Bayne, who is working pro bono (for free) on the case, was visibly angered at the appeal court ruling and told reporters that there is no uniformity in Canada in how the federal extradition law is applied.

“The decision of the Court of Appeal does make me wonder whether there is any hope in Ontario for the rights and charter protections in extradition proceedings for Canadians citizens.”

One of the key legal elements in the case was a Supreme Court of Canada ruling in a 2006 B.C. case known as ‘Ferras’ that gave judges more flexibility in rejecting extradition requests on the basis of “manifestly unreliable” evidence.

According to Bayne, the Ontario appeal court disregarded that ruling and the fact that the French evidence against is clearly and manifestly unreliable.

“(This decision) arguably opens wider the great divide among Canadian provinces as to how extradition requests are treated and tested legally across Canada,’ he said.

“There is clearly no uniformity in approach in Canada, and that is contrary to the fundamental principle that all Canadians should be treated equally by criminal law.”

Four significant points in the case, added Bayne, are:

- Fingerprints of the French suspect do not match Diab’s.
- Diab’s passport shows he was not in France at the time of the bombing.
- The suspect who registered at a Paris hotel was, according to a witness, between 40-45. Diab was in his mid 20s at the time.
- French handwriting analysis, on which the case ultimately turned was “so unreliable and incompetent,” said Bayne, that France had to withdraw it. (The analysis used the wrong person’s handwriting yet decided it was Diab’s). Numerous experts at Diab’s extradition hearing roundly dismissed the work of a second analyst as unreliable.

“Hassan Diab would be a free man if this case started in Vancouver instead of Ottawa,” said the lawyer.

But David Koschitzky, Chair of the Centre for Israel and Jewish Affairs, welcomed the appeal court decision.

“The fact that the main suspect in this hateful terrorist attack will indeed face the justice system gives hope to the survivors and to the families of the innocent victims,” he said.

“The upholding of the extradition order does not assume Diab’s culpability,” he added. “Diab will be able to defend himself before France’s judicial system, which is just as impartial as Canada’s.”

The entire Court of Appeal for Ontario ruling can be found at
<http://www.ontariocourts.ca/coa/en/>

ccobb@ottawacitizen.com

twitter.com/chrisicobb