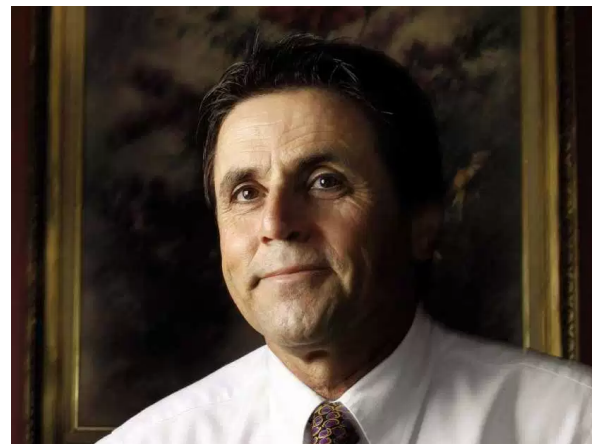


French judge orders terror accused Diab's release



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In a surprise move, a French judge has ordered that Ottawa academic Hassan Diab be released from jail while an investigation into his alleged involvement in a 1980 Paris terrorist attack continues.

But prosecutors, apparently intent on seeing Diab back behind bars, have filed an appeal that is due to be heard early next week.

The Lebanese-born Canadian was released late Saturday and has communicated numerous times via Skype with his wife, Rania Tfaily, and their two children, Jena, 3, and 16-month-old son Jad.

After what amounted to house arrest in Ottawa and incarceration for the past 18 months in Paris, Tfaily says her husband has been feeling disoriented.

"This is the first time he has been able to walk outside alone for eight years," she told Postmedia Tuesday.

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Diab, 62, has been held at a jail on the outskirts of Paris since Nov. 15, 2014 — the day after exhausting numerous legal appeals against his extradition.

The former University of Ottawa and Carleton University professor is accused of murder, attempted murder and other charges related to the terrorist bombing outside the Rue Copernic synagogue on Oct. 3, 1980.

The blast, allegedly carried out by an arm of the Popular Front for the Liberation of Palestine, killed four passers-by and injured more than 40 inside and outside the synagogue.

Diab denies any involvement in the bombing and says he wasn't in Paris on the day of the bombing.

After being pulled from his Hull apartment by an RCMP tactical team on Nov. 13, 2008, Diab was jailed for several months at the Ottawa-Carleton Detention Centre before being released on strict bail conditions.

Under the terms of his release in France, Diab is allowed to walk alone in public for three hours each afternoon and although he must wear a monitoring device, he does not have to pay for it, as he did in Ottawa.

A legal wrangle preceded Diab's release in Paris, with the investigating magistrate overseeing the case deciding that the academic is not a flight risk.

Shortly after the magistrate's order, prosecutors asked an appeal court for an emergency hearing and the appeal court – three judges – overturned the magistrate's order.

Shortly after that, a judge in charge of reviewing pre-trial incarceration ordered Diab released.

The prosecutors' next attempt to overturn the order goes back to the same three judges next week.

Ottawa lawyer Donald Bayne, who represented Diab during his two-year extradition hearing, said Tuesday that Diab phoned to tell him of the release.

"I got the surprise of my life," said Bayne. "We chatted for a while. He was buoyant about being able to walk out in the fresh air without a surety – unlike in Canada.

"It was an injustice to extradite him in the first place," added Bayne. "People are extradited to stand trial, not to face investigation. But here is a (French) judge who is starting to see the weaknesses in the case."

Ontario Superior Court Justice Robert Maranger ordered Diab extradited in June 2011 — a decision subsequently confirmed by then-justice minister Rob Nicholson and upheld by the Ontario Court of Appeal.

Diab's final hope was the Supreme Court of Canada, which refused to hear the case.

Key to the French prosecutors' case is handwriting analysis comparing Diab's handwriting with words on a hotel register written by one of the alleged perpetrators.

Three internationally renowned experts called by Bayne to testify at the Ottawa extradition hearing unanimously dismissed the analysis as incompetent and produced from no known accepted standards.

Maranger characterized the handwriting analysis as “convoluted, very confusing with conclusions that are suspect” but under Canadian extradition law said he had no choice but to order Diab be handed over to the French.

Under terms of his release, Diab is not allowed to leave Paris, where he staying with an academic acquaintance.

His French lawyer William Bourdon told Postmedia on Tuesday that Diab will be in court for next week’s appeal, effectively negating the prosecution grounds for returning him to jail.

“The court of appeal mentioned the risk of fleeing as a reason to overrule the decision to release Hassan Diab,” said Bourdon. “He will be present at the next hearing so this will prove to the court of appeal that he never intended to flee, as was the case in the whole extradition procedure in Canada.”