

French appeal court orders Diab back to jail pending trial



CHRIS COBB
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Former Ottawa academic Hassan Diab is back in a Paris jail barely a week after he was released on bail.

French prosecutors had filed an appeal on Saturday, after terrorist suspect Diab was released on May 17, alleging he was a flight risk and a threat to civil order.

His defence team had hoped that the appeal judges would accept Diab's presence at Tuesday afternoon's appeal hearing, and the lack of public interest in his release, would be a successful counter to the prosecution grounds for keeping the 62-year-old Canadian citizen in jail.

Diab's Canadian lawyer Don Bayne called the decision "tragic.

"It's an extension of an ongoing tragic miscarriage of justice and a wrongful conviction in the making," Bayne said. "He shouldn't have been extradited by Canada, and look at what's happened to him and his family. Eighteen months in custody, then out, then in custody, and still no trial and no mention of a trial."

Diab's wife Rania Tfaily said she was "crushed" by the decision.

"Hassan fully abided by his bail conditions for several years in Canada," she said. "In fact, a journalist informed Hassan that he was under investigation more than a year before France submitted a request for his extradition. Hassan could have legally travelled anywhere during that period."

Diab's Paris lawyer, William Bourdon, said the defence would appeal Tuesday's decision to the French Supreme Court

Diab is accused of murder and attempted murder for his alleged involvement in an October 1980 Paris terrorist bomb attack.

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

The former Carleton and University of Ottawa sociology lecturer denies any involvement, denies he was in Paris at the time and says he is an innocent victim of mistaken identity.

A legal roller coaster has surrounded Diab's release, with the investigating magistrate overseeing the case ruling that the academic is neither a flight risk nor a threat to French public order.

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

Shortly afterward, a judge in charge of reviewing all pre-trial incarceration, ordered Diab released under the supervision of an academic acquaintance.

It was the same three-judge panel that ordered Diab back into custody on Tuesday.

The Lebanese-born academic appeared briefly via Skype on Friday to thank a packed hall of supporters, many of whom have been actively campaigning for his release, and fundraising for his cause, since his arrest and extradition hearing.

Bayne, who also spoke at the gathering, was again scathing of the Canadian justice system and the extradition law under which Diab was sent to Paris.

"Canada has let Hassan Diab down," said Bayne.

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, to the surprise of many legal experts, refused to hear the case.

French authorities have so far presented little concrete evidence against Diab other than unsourced intelligence reports that Canadian federal prosecutors representing France were forced to withdraw because they couldn't prove they were not gleaned from torture.

That leaves French 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 extradition hearing unanimously dismissed the analysis as incompetent.

Maranger characterized the handwriting analysis as "convoluted, very confusing with conclusions that are suspect" and doubted it would be enough to convict in a Canadian criminal court.

Despite those reservations, he said Canadian extradition law left him no choice.

Both the handwriting evidence and the intelligence reports will apparently be part of the prosecution case when, and if, the case goes to trial.

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

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

Tfaily was planning to travel to Paris in a few weeks with the couple's two young children in the hope they could interact with their father outside the jail environment.

"Now even this simple dream has been crushed," she said. "I hope that this government will look into the injustices in Hassan's case and why a Canadian citizen is being held in detention for more than 18 months for a case that is still under investigation and for which a Canadian judge found the evidence to be lacking."