

Ottawa academic's release ordered from Paris jail for fifth time – prosecutors quickly block move



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File photo of Hassan Diab, a Lebanese-born Canadian citizen, who was extradited to France two and a half years ago.

TONY CALDWELL / POSTMEDIA

Two French investigating judges ordered the release of Ottawa academic Hassan Diab from a Paris jail Monday - the fifth time he has been ordered released since being extradited to France two and a half years ago.

But prosecutors immediately moved to block Diab's release on the grounds that he is a flight risk and a threat to public disorder.

Judge Jean-Marc Herbaut and his deputy signed the latest release order.

Herbaut said in November that there is "consistent evidence" that Diab is telling the truth and that he was not in Paris in Oct. 1980 when a powerful terrorist bomb killed four passersby and injured many others inside and outside a synagogue.

Appeals court judges, who have backed prosecutors on the previous four occasions Diab has been released, are expected to announce their decision several weeks from now.

An interim order means that Diab stays in jail until that decision.

The 63-year-old Lebanese-born Canadian was released for 10 days last spring while prosecutors scrambled to appeal. He stayed with a fellow academic in Paris and wore a GPS monitoring system on his ankle. He moved around Paris without incident.

"Hassan Diab's situation is unprecedented," Diab's Paris lawyer, William Bourdon, told the Citizen after the last release order was overturned. "After 36 years and since no one else was indicted, the court of appeal is clinging to Hassan Diab. He is detained because of the judges' fear to be accused for laxity in the context of today's fight against terrorism in France. Such a situation would be inconceivable in an ordinary law situation."

Ottawa defence lawyer Don Bayne, who represented Diab at his extradition hearing, said Monday that it's clear the French investigating judge has found no evidence to warrant Diab's continued imprisonment.

“Dr. Diab is a prisoner of the current political and social reality in France,” he said. “It is past time that our government – a government of rights and freedoms for its citizens – moved to help free this man.”

Investigating judge Herbaut said in his last release order “that in September, early October 1980 Diab was very likely immersed in his exam. We know this due to witness reports and documents from the Lebanese University confirming that he studied for his exams, sat them in Beirut and passed them.”

The judge conceded “questions remain” over how Diab’s passport was found on a Popular Front for the Liberation of Palestine militant a year after the bombing but that was no reason for Diab’s continued incarceration. (Diab said it was lost during the chaos of the Lebanon civil war).

French prosecutors continue to rely on evidence that Diab’s Canadian extradition judge — Superior Court Justice Robert Maranger — described as “weak, convoluted and confusing,” and unlikely to result in a conviction if Diab was tried in Canada.

Part of the evidence still in play is based on intelligence for which there is no known source and which was withdrawn during the extradition hearing in Ottawa because of its unreliability.

Repeated fingerprint tests comparing Diab’s prints to those found on a hotel register and in a car police say was used in the attack have all been negative.

Maranger said despite his doubts, the low threshold of Canadian extradition law gave him no choice but to recommend extradition.

Appeals by Diab’s lawyers eventually made their way to the Supreme Court, which refused to hear the case, ending a six-year Canadian legal saga.

Unlike Canada, France does not extradite its own citizens.