

Court pushes appeal of Hassan Diab's release from French prison to next year



Ottawa academic was linked by French authorities to 1980 bombing before case fell apart

Thomas Daigle, David Cochrane · CBC News ·

Posted: Oct 25, 2018 5:00 PM ET | Last Updated: an hour ago



Hassan Diab with his daughter Jena in the family's Ottawa home. (Lisa Laventure/CBC)

The French court of appeal will not rule Friday in the case of Hassan Diab, the Canadian academic who French authorities suspect had involvement in the 1980 bombing outside a Paris synagogue.

A formal hearing was planned at a Paris courthouse today over whether the court would uphold a decision that released Diab from jail and sent him home to Canada. But

no hearing occurred.

Instead, Diab's defence team told reporters the court will assign a new investigating judge to the case.

Lawyer Aurélie Lefebvre explained further review is needed in relation to handwriting analysis presented as evidence. She said evidence must be reviewed by Feb. 15 next year.

Diab's French defence team now expects the case could be wrapped up by next summer.

"It is of course a new setback because we were expecting the decision today," Lefebvre said. "However, we remain confident. We have to consider the court has a doubt."

Never formally charged

Diab, a 64-year-old Ottawa university lecturer, was accused by authorities in the attack, which killed four people and injured more than 40.

Diab has consistently maintained his innocence. He was released in January after two French judges ruled the evidence against him wasn't strong enough to take to trial. He was never formally charged.

Diab was arrested by RCMP in November 2008 and placed under strict bail conditions until he was extradited to France in 2014. Diab spent more than three years in prison in France before the case against him collapsed.

If France wins its appeal, it could seek to extradite Diab a second time, or try him in absentia.

The appeal was supposed to be resolved in July, but France's Court of Appeal put off releasing its decision until Friday due to the sudden appearance of new evidence from Greek authorities that needed to be translated and reviewed.

That evidence proved to be of little value and was dealt with during a three-minute hearing in September.

Back in June, CBC News confirmed that France was aware of — and failed to disclose — fingerprint evidence that ultimately helped to clear Diab.

French officials did not share fingerprint comparison evidence in their possession with their Canadian counterparts. In fact, court documents showed French prosecutors denied the evidence even existed.

'A weak case'

Diab's case has raised troubling questions about the standard of evidence required by Canadian law for extradition.

Robert Maranger, the Ontario Superior Court judge who ordered Diab's extradition in 2011, wrote in his decision that France had presented "a weak case; the prospects of conviction in the context of a fair trial seem unlikely."

Maranger ordered Diab's extradition on the strength of handwriting analysis that allegedly linked him to the bomber. It was said to be the only piece of physical evidence linking Diab to the attack.

But in their January order, obtained by CBC News, French investigative judges dismissed that evidence as unreliable.

- [Hassan Diab to boycott external review of 2014 extradition to France](#)
- [Murray Segal to lead review of Hassan Diab extradition](#)

Another key factor in Diab's release was the high probability that he wasn't even in Paris on the day of the bombing. Using university records and interviews with Diab's classmates, the investigative judges determined he was "probably in Lebanon" writing exams when the Rue Copernic attack happened.

"It is likely that Hassan Diab was in Lebanon during September and October 1980 ... and it is therefore unlikely that he is the man ... who then laid the bomb on Rue Copernic on October 3rd, 1980," they wrote.

Diab boycotting review

Justice Minister Jody Wilson-Raybould has asked the former deputy attorney general of Ontario, Murray Segal, to conduct an external review of Diab's extradition.

Through his lawyer Donald Bayne, Diab announced that he would boycott that review, arguing its scope is too narrow and it appears to be nothing more than a "concerted damage-control effort."

Segal will be asked to assess whether Canadian Department of Justice officials followed the law and departmental procedures while conducting the extradition.

He also will look at whether government lawyers who handle extradition cases need to change their approach, and whether Canada needs to address specific issues with France over that country's treatment of Diab.

- [Internal review of Hassan Diab's extradition tainted by conflict of interest, says lawyer](#)
- [Canada helped France dig up evidence to extradite Ottawa man later freed on terror charges](#)

But Segal isn't being tasked with a review of Canada's extradition laws themselves — something Diab and his supporters have demanded. Segal's authority also falls short of the judge-led public inquiry requested by Diab, rights groups such as Amnesty International and some politicians.

"This is so fundamentally wrong and disappointing," said Bayne. "As fine a fellow as Murray Segal is, he is not an independent judge. He's a career prosecutor."

Bayne said the external review will not allow for a cross-examination of Justice Department officials in the way a public inquiry would.

"Where is Hassan Diab's right to challenge what they did to him? Only a public inquiry can have credibility," Bayne said.

Segal spent decades in senior positions in the Ontario public service before leaving for the private sector, where he has worked as a lawyer, mediator and consultant.

He has led a number of high-profile reviews — notably the independent probe of the actions of Nova Scotia police and public prosecutors in the [Rehtaeh Parsons](#) case. He also has conducted reviews of CSIS and the Criminal Law Branch of British Columbia.

CBC  Radio-Canada

©2018 CBC/Radio-Canada. All rights reserved.

Visitez Radio-Canada.ca