

Diab's appeal unexpectedly delayed for new handwriting analysis

CHRIS COBB Updated: October 26, 2018



Hassan Diab's French appeal has been delayed. *LARS HAGBERG / AFP/GETTY IMAGES*

Appeal judges in France have refused to close the book on Hassan Diab's 10-year battle against terrorism allegations.

In an unexpected decision Friday, the appeal judges ordered an expert review of controversial handwriting evidence that was key to Diab's extradition to France in 2014.

In Friday's decision, the French appeal court judges said the expert review of the handwriting evidence should be completed by next February.

They had originally set Friday as the day they would rule on a prosecution appeal against Diab's release.

That ruling is now postponed until next summer.

Despite the delay, Diab's French lawyers are portraying Friday's decision as potentially positive, and an indication that the appeal judges are also having doubts about the handwriting evidence, which has been debunked by international experts but is key to the prosecution case.

A disappointed Diab told this newspaper Friday that he was hopeful the appeal court judges would finally close the case.

"It's been a long process," he said, "and I feel more than ever that France doesn't want to admit they made a mistake. I can't find any other explanation for all these delays.

"Meanwhile, we are continuing to live this Orwellian situation – under the constant threat of uncertainty. We have gone from seeing the light at the end of one tunnel and into the darkness of another and we don't know how long the tunnel is going to be. Isn't a decade of this enough?

Diab said he hopes the expert review of the handwriting will lead to them ending the case.

"Legally there is nothing," he added. "They have pursued all the avenues and found nothing. But how can you trust that next summer will be the end of it."

Diab, a Lebanon-born Canadian citizen, was flown back to Canada in January this year days after being released from a Paris maximum security prison where he had spent more than three years in pre-trial detention — mostly in solitary confinement.

He had been accused of planting a powerful bomb outside a synagogue in October 1980.

Four passersby were killed and more than 40 people inside and outside of the synagogue were injured.

Diab has consistently denied being involved and said he is a victim of mistaken identity.

Anti-terrorism Judge Jean-Marc Herbaut, the chief investigative judge who finally dismissed the case against Diab in January, said there was “compelling evidence”

that Diab is telling the truth and was studying in Beirut at the time of the blast.

Herbaut visited Lebanon as part of his investigation.

Prosecutors and members of the synagogue had appealed Herbaut's decision — a move apparently unprecedented in France where decisions of investigative judges determine whether cases are closed or go to trial.

Diab's French lawyers claim the case against the 64-year-old academic is less about the law and more about internal politics following a series of terrorist attacks in recent years.

But Friday's appeal court decision reopens the argument about the validity of the French analysis which had compared Diab's handwriting to five words in a hotel register, presumed to have been written by the bomber.

French prosecutors submitted, then withdrew, two handwriting reports one of which had mistakenly compared the words in the hotel register to the handwriting of Diab's former wife.

The analysts, unaware that they were not using Diab's own handwriting, nevertheless determined he had likely written the words on the hotel register.

A third analysis submitted by France became crucial after all other evidence – including alleged intelligence reports and negative fingerprint

comparisons – had undermined the French allegations against Diab to the point of collapse.

During the extradition hearing, Diab's defence lawyer Donald Bayne called three international handwriting experts all of whom debunked the third piece of handwriting analysis as incompetent and based on no known methodology.

It emerged that the third analyst had only 21 hours of training.

Under Canada's extradition laws, any evidence France submitted to the court had to be considered 'presumptively reliable' meaning that it does not have to meet the standard of evidence in a Canadian criminal case.

Extradition judge Robert Maranger said he doubted the evidence against Diab would have resulted in a conviction in Canada but said that lower required standard left him no choice but to commit Diab for extradition.

The final decision was made by then Conservative federal Justice minister Rob Nicholson.

Diab's subsequent appeals failed.

Shortly after his 2008 arrest, Diab lost his job at Carleton University and was not allowed to work for the next six years.

He was released on bail during the extradition process into what amounted to house arrest. He was forced to wear – and pay for – a \$2,000-a-month GPS ankle bracelet.

Friends and supporters raised funds to pay for the monitoring system

Under French law, prisoners released without trial are entitled to compensation for every day spent in prison, with reimbursement of legal expenses and other costs.

Diab said he doesn't want any of the French money for himself.

"If I get any money none of it will go to my own pocket," he said. "I will try to pay back those people who helped pay for my legal fees, the GPS and everything else. I don't want money myself and would not take a penny, but I would like to pay back these people who supported me."