

Order Abdelrazik home, lawyers tell court

PAUL KORING

The Globe and Mail

May 7, 2009 at 8:18 PM EDT

OTTAWA — Order the government to bring him home now, lawyers for Abousfian Abdelrazik asked a federal court judge Thursday, insisting that years of broken promises and duplicity must finally end.

The repeated, and always-tougher, requirements imposed by the government “can only be considered bad faith and reprehensible conduct in the extreme,” said Paul Champ. He asked Federal Court Justice Russel Zinn to “order the government to repatriate” Mr. Abdelrazik, who remains on the UN blacklist of al-Qaeda suspects despite being cleared by Canada's antiterrorist agencies.

Mr. Champ said the government should be ordered to get Mr. Abdelrazik home by whatever means it chooses, whether on a commercial flight or a government jet, as long as the order brooks no further delay.

The government's latest claim, that its hands are tied by the United Nations, amounts to “deliberately twisting what these resolutions mean to try and come up with a means to try and block” Mr. Abdelrazik's return, Mr. Champ said.

Only a few hundred metres from the court building, opposition MPs railed during a raucous Question Period at Foreign Minister Lawrence Cannon for his treatment of Mr. Abdelrazik.

“The minister can no longer hide. There are no second-class citizens in this country,” said Liberal Bob Rae, referring to the assurances of a senior UN official who told The Globe and Mail that Canada could bring Mr. Abdelrazik home any time it wanted because the travel ban imposed by the blacklist didn't bar citizens from returning home.

Mr. Cannon rejected the view of Richard Barrett, the senior UN official responsible for administering the UN's al-Qaeda and Taliban list.

“This does not change anything,” Mr. Cannon said, adding that the government interpreted the UN resolution differently. “The government of Canada takes its international obligations very seriously.”

NDP Leader Jack Layton said “it is a bogus argument to suggest that Mr. Abdelrazik is on a list, and that somehow prevents him from being brought back to Canada. That has been made very, very clear by the United Nations official, Richard Barrett.” He accused the Harper government of failing to understand “international law, or worse, it is deliberately misleading this House and the court at the same time.”

Mr. Cannon said “it does not make any difference what the leader of the NDP says in this House and whether he casts aspersions on myself and the government,” but the minister also said the government would await the court's decision, the first inkling that it might bow to a judge's order that a citizen's Charter right to return might require government intervention.

Mr. Abdelrazik listened to the court drama from the Canadian embassy in Khartoum, halfway around the world but the closest he has been to Canadian justice since he was imprisoned nearly six years ago in Sudan. He was asked nothing and said nothing during the day-long hearing.

“Their promises were nothing more than empty gestures; the government never believed that Mr. Abdelrazik would be able to get a paid ticket home” on an airline willing to carry him, Mr. Champ told the court.

When more than 200 Canadians chipped in to buy him a ticket last month and Etihad Airlines offered to fly him to Montreal in defiance of the American “no-fly” list, separate from the UN blacklist, Mr. Cannon announced he was refusing Mr. Abdelrazik what had been previously promised, a one-way-home emergency travel document.

Yavar Hameed, who has led the legal effort on Mr. Abdelrazik's behalf, told the court that the government's record for years was one of “bad faith, obfuscation, procrastination and evasiveness.” Government lawyers, who will argue Friday against any order compelling Mr. Abdelrazik's return, scored some points Thursday. They managed to persuade Mr. Justice Zinn to strike from evidence allegations made by Mr. Abdelrazik that he had been poorly treated while in the embassy.

The court is expected to finish hearing arguments Friday although it could be weeks, perhaps longer, before a ruling is handed down. Even if the government were ordered to bring Mr. Abdelrazik home, the Charter implications of the case make it likely that it will be appealed to the Supreme Court.