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# Conrad Black unlikely to return to Canada while on bail as appeal moves rapidly

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By Sunny Freeman, The Canadian Press

TORONTO - A new development in the case against Conrad Black may frustrate his efforts to return to Canada while he is free on bail awaiting an appeal of his fraud convictions — but it could also mean his case is on the fast track to a final resolution.

A U.S. appeals court has ordered written arguments from prosecution and defence lawyers in the case against the former Canadian media baron by Aug. 16 — the same day Black is set to provide Judge Amy St. Eve with a financial affidavit that could be a determining factor in his request to leave the U.S. and travel to Toronto while on bail.

That written briefs have been requested suggests the case is moving forward at a significant pace and increases the likelihood that St. Eve will decide Black should stay in the U.S. in order to appear again as soon as possible, white-collar crime expert Jacob Frenkel said Tuesday.

"It's very likely that the judge will continue the stay in the U.S. order in effect and set another status hearing for another 30 days out," the former U.S. prosecutor said.

"As soon as 7th circuit reaches a decision, there's no reason for further delay for Judge St. Eve to decide what's next."

It may no longer be practical for Black to seek leave to Canada while he is on bail, given that his case is moving at such a rapid pace, said criminal defence lawyer Steven Skurka, who wrote a book on Black's 2007 trial.

"Even if he achieves it, he still has to overcome the second hurdle of getting into Canada," he said.

"He might not even be able to return to Canada before the appeal is decided."

The submissions will be reviewed by a panel of three appellate circuit judges led by Judge Richard Posner. Skurka pointed out that when Posner presided over Black's last appeal, it took only 20 days to reach a decision.

"Given the speed at which they decided this appeal last time, we could have a decision by the early fall."

The court granted Black's motion for bail July 19 following a U.S. Supreme Court ruling that

narrowed the scope of the law used to convict him on fraud charges. The decision didn't directly affect a related obstruction of justice conviction and left it up to the lower court to decide whether the fraud conviction should be overturned.

Frenkel said he believes the obstruction of justice conviction could stick, but that Black could be let off with "time served" for the conviction. He has already served over two years of his six-and-a-half year sentence.

A final ruling will likely take a few months, a relatively short time span for such legal challenges.

"This likely will end up back before Judge St. Eve and depending on the outcome we could see a whole new round of appeals applications," Frenkel said.

Black was told Friday he must remain on U.S. soil despite a request to return to Canada in light of his wife's undisclosed health issues.

But even if the U.S. ultimately decides to let Black travel, whether Canada will let Black return is another question. He's been convicted of an indictable offence and renounced his Canadian citizenship a decade ago to become a member of the British House of Lords.

His only recourse may be a special dispensation from Citizenship and Immigration Minister Jason Kenney.

Skurka says there will be several more hurdles in allowing Black into Canada, and it will be a "bumpy ride" before he clears any of those.

Black's wife, journalist Barbara Amiel, is a Canadian citizen, but that doesn't automatically allow him entry into Canada, said immigration lawyer Michael Niren.

Black must apply for a special temporary resident permit to cross the border.

"If he was a citizen he would have a right to enter Canada regardless of his conviction," Niren said.

"He doesn't have an automatic right for entry he has a conviction he has to apply for entry and as part of that application he has to convince the Canadian authorities that there are sufficient grounds to admit him."

An American with a minor conviction could be granted a permit on the spot, but Black's case is unusual because he is a British citizen trying to get into Canada from the U.S., Niren added.

"Because of the high profile case we're dealing with and the nature of his convictions most likely its going to have to go to the higher authorities and be looked at very carefully and that could take potentially months."

Amiel has reportedly lived in the couple's Palm Beach mansion for most of her husband's 28-month incarceration at a federal prison in Coleman, Fla.

The estate, partially-owned by an investment firm to which Black owed money, has been on the market for several months. Once the house is sold, it's unclear where the couple would reside in the United States if Black is not allowed to return to the only home he still owns, his posh estate in

Toronto's Bridle Path neighbourhood.

Black's appeal lawyer Miguel Estrada told the court last week ownership of the Palm Beach home is in a state of "flux," and suggested the Blacks might soon be living in a New York City hotel. Estrada also argued the couple should be allowed to return to their Toronto home on account of Amiel's health.

He argued the Palm Beach home "is not a suitable abode in her condition" in the blazing heat of a Florida summer.

Black had to surrender his British passport to the court on Friday, although it expired last year.

He is still facing several civil suits. The U.S. Internal Revenue Service also recently launched a \$71-million lawsuit for alleged unpaid taxes.

Black has challenged the IRS's claim, arguing that he was "neither a citizen nor a resident of the United States" and therefore not obliged to pay taxes in the U.S.

The IRS's case against him harkens back to a far grander period in Black's life, alleging he failed to report and pay taxes on income stemming from personal use of Hollinger's corporate jets, the use of corporate money to buy former president Franklin D. Roosevelt's papers, and Hollinger International Inc.'s purchase 10 years ago of a US\$5.9-million New York apartment for his use.

Hollinger once owned the Chicago Sun-Times, The Daily Telegraph of London, The Jerusalem Post and hundreds of community papers in the U.S. and Canada.

At the core of the charges against Black was his strategy, starting in 1998, of selling off the bulk of the small community papers published in smaller cities across the United States and Canada.

Black and other Hollinger executives received millions of dollars in payments from the companies that bought the community papers in return for promises that they would not return to compete with the new owners.

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