

Jewish spectators crowd court in Ouanounou case

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The scene in and around courtroom 6-1 at 361 University Ave. in Toronto on Feb. 13 was unusual, by any measure.

As lawyers presented arguments that may determine the fate of 25-year-old Shalom Nethanel Ouanounou, who has been on life support at Humber River Hospital since suffering a violent asthmatic attack in September, dozens of Orthodox Jews came and went. They filled the capacious courtroom to capacity. Inside, women read prayers silently, while outside, a man wearing tefillin and a tallit, prayed as bemused police officers looked on.

They were there to show their support for Ouanounou. Lawyers for the hospital argue that he is brain dead and they wish to remove him from life support. A death certificate has already been issued.

In two days of court hearings on Feb. 12 and 13, lawyers for his family, supported by three intervenors from the Jewish community, argued that his heart and lungs are still functioning and that his condition does not meet the Jewish definition of death. They contend that his re-



Orthodox supporters attend a court hearing for a man on life support in Toronto Feb. 13.

ligious rights under the Charter of Rights and Freedoms should be respected and his life should be maintained.

Judge Glenn Hainey of the Ontario Superior Court of Justice, who issued a temporary injunction in November that prevents the hospital from removing him from life support, heard the case and is expected to render a decision in the next 30 to 90 days.

Ouanounou's father, Max Ouanounou, said the law in Ontario is unclear as to the definition of death and that the neurological definition is not the only relevant one. Shalom Ouanounou's heart, lungs and kidneys are functioning and, recently,

"There has been some finger movement," his father said. That has given the family some hope, but ultimately, "I'd like to see him get up," said Max Ouanounou.

In the meantime, the family would like the hospital to adopt the standards that exist in the state of New Jersey, where hospitals have agreed to accommodate the religious beliefs of Orthodox Jews by keeping patients on life support as long as the heart and lungs are functioning.

Charles Wagner, a partner at Wagner Sidlofsky LLP, said the law firm is representing The League for Human Rights of B'nai Brith Canada, the Vaad Harabonim of Toronto, the umbrella organization for Orthodox rabbis in the Greater Toronto Area, and the Centre for Israel and Jewish Affairs, all of which have been granted intervenor status.

While Wagner declined to comment on the case, Michael Mostyn, CEO of B'nai Brith Canada, said, "We intervened ... in order to prevent a serious injustice from being perpetrated against a Jewish family. There is no medical, scientific or academic consensus on the definition of death and attempting to remove Shalom from life support against his own, and his family's, will is a violation of his right to

life and his right to rely on the definition of death used in halakhah (Jewish law)."

Rabbi Asher Vale, director of the Beis Din (religious court) of the Vaad Harabonim, said, "We want the doctors and hospitals to respect our beliefs with respect to the determination of death.

"Jewish parents, for example, want to know that if they admit their child to a hospital, the staff will administer treatment in accordance with their halakhic beliefs. This is a human rights issue. In this case, the family is seeking that medical treatment not be withheld or withdrawn on the basis of a determination of death that Jewish law does not agree with."

Meanwhile, the hospital's lawyer told Judge Hainey that courts should not become arbiters of religious dogma. While Ouanounou may well maintain a certain religious belief about death, "he is asking society, the doctors, the hospital to abide by that belief."

"He's asking the rest of society to act in accordance with his belief," the lawyer said, adding that the Ouanounou family is asking that the definition of death be changed to one that depends on a person's religious beliefs. ■

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