

Huawei CFO fights back with glamour offensive

Meng basks in growing media spotlight as legal battle over detainment heats up

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When Huawei Technologies Co.'s chief financial officer first argued that Canada had trampled her constitutional rights during her December arrest, it rang a little hollow.

Meng Wanzhou wasn't a Canadian citizen. She had been detained for three hours at Vancouver International Airport. She had been released on bail to live in one of her two multimillion-dollar homes in the Pacific Coast city. On the face of it, it didn't appear a roughshod abuse of Canada's Charter of Rights and Freedoms capable of derailing a U.S. extradition request.

Yet, over a two-week stretch of hearings ending on Thursday, her phalanx of lawyers has exposed cracks in the way Canada handled her arrest — including an admission from border officials that “in error” they shared her device passwords with police — putting the prosecution on the back foot.

“Meng was tricked,” Scott Fenton, one of her lawyers, told the court, laying out how the Canada Border Services Agency, RCMP and the U.S. Federal Bureau of Investigation unlawfully used the pretext of an immigration check to get Meng to disclose evidence that could be used against her.

According to defence testimony, Meng's warrant called for her “immediate” arrest, yet border officials detained her first for three hours, ostensibly to determine if she was admissible to Canada. However:

There was never any chance Meng would have been turned away, given the arrest warrant awaiting her.

Officials never formally admitted her anyway; her immigration status in Canada remains in limbo.

They also never told her why she was being questioned. Only when arrested hours later was she advised of her right to remain silent. Border officials say they weren't co-operating with RCMP or the FBI at that point.

They questioned her about Huawei's business in Iran. Unbeknownst to Meng, the U.S. extradition request — based on an indictment still sealed at that time — accused her of fraud related to sanctions on Iran. Following a morning meeting on Dec. 1 with RCMP and CBSA officers, a Mountie wrote in her notes that the border guards would obtain Meng's phones “as per FBI request,” Fenton told the court.

They placed her devices in special bags to prevent them from being tampered with remotely, a specific request from the FBI and not a standard border procedure.

They gave the passwords to all her devices to police. A CBSA official later said the passwords “were provided in error” and couldn't be used as evidence, according to an email exhibit. But

Fenton charged the RCMP illegally passed on serial numbers and other crucial identifying details of her cellphones, laptop and tablet to the FBI, information that enables U.S. authorities to find out calls made and received, phone numbers, time and duration of calls and the physical location of cell towers where the calls were connected.

“You have powerful evidence pointing to an air of reality that the remedy for these cumulative abuses of law, that also involve multiple serious violations of Ms. Meng’s constitutional rights, would justify a stay of proceedings,” Fenton said.

But Crown lawyer John Gibb-carsley tried to explain these points away on Wednesday, saying “there’s no evidence it was all done for nefarious purposes.”

And another Crown lawyer, Robert Frater, produced two emails from a staff sergeant in which he said he didn’t provide the information to the FBI. He also proposed that the judge direct the Crown to produce documents from five RCMP officers on the topic.

However, the defence insisted the new evidence from the staff sergeant was merely “hearsay.”

“We have grave concerns that this information is not correct,” Fenton said.

Associate Chief Justice Heather Holmes, the presiding judge, directed the Crown to obtain affidavits from the five officers by next Wednesday.

The defence will then have until Oct. 16 to respond and decide whether it wants to apply to cross-examine the officers.

The judge reserved her decision on the defence’s overall application for disclosure.

Holmes seemed skeptical, grilling the prosecution.

Meng seeks a court order to force the Canadian government to release more details about her arrest. Holmes is expected to issue a decision shortly. Ultimately, the defence is seeking to establish an abuse of process. If it’s successful, the court could halt the extradition proceedings. For Meng, these are the first steps in a long battle in which the odds are stacked against her. Of the 798 U.S. extradition requests received since 2008, Canada has refused or discharged only eight, according to the Department of Justice.

Still, she’s approaching the first legal test with flair. The executive — who wore an Abercrombie & Fitch hoodie in her mug shot and preferred yoga pants and sneakers at earlier proceedings — has shown up daily in four-inch stilettos and designer dresses flaunting the GPS tracker on her left ankle.

Meng, who used to scurry to her car with a wool cap pulled low over her eyes, now strides each morning out the gates of her \$13-million property — coat off despite the chill — allowing photographers to take pictures of her. She stopped for her first interview with a Chinese-language TV crew to remark on the 70th anniversary of Communist party rule.

There’s a certain irony in the glamour offensive. Two Canadians detained in China within days of Meng’s arrest, Michael Kovrig and Michael Spavor, are being held in isolation with only sporadic access to consular officials. Meng’s arrest and the detentions of Kovrig and Spavor have plunged the relationship between Canada and its second-biggest trading partner

into its darkest period since diplomatic ties were established in 1970, with almost no hope of a détente.

Meanwhile, for a woman who was virtually unknown until her arrest, despite being the eldest daughter of Huawei's billionaire founder Ren Zhengfei, the case continues to offer glimpses into Meng's persona and life: until December, she had never had any run-in with the law, not even a traffic violation. In addition to the two Vancouver homes, she has two in Hong Kong, one in Shenzhen and three in London, which she rents out. She's a titan of business with a penchant for accessorizing just about everything: a Winnie-the-pooh sticker on her iPad, a pastel puffball on her backpack, even a cherry blossom charm on her USB stick.

Meng's high-profile case brings to the fore growing criticism that Canada's border agency operates amid scant oversight and outdated laws. In June, an Ontario court censured the CBSA for its "serious, long-standing and systemic" approach to searching electronic devices.

A December 2017 report by the parliamentary ethics committee criticized how the agency treats such devices in the same way it inspects a bag of underwear, and called for new laws on device searches at borders.

"They say they don't, but the law, if applied as they say it is, would allow them to do it on a whim. We say this is likely unconstitutional," David Fraser, a privacy lawyer representing the Canadian Bar Association, told the committee. Bloomberg

With files from The Canadian Press