



The Supreme Court of Canada says unusually complex criminal prosecutions may justify trials taking longer than the *Jordan's* time limits.

This case was about the right of an accused person to be tried within a reasonable time, as protected under section 11(b) of the *Canadian Charter of Rights and Freedoms*. In [*R. v. Jordan*, 2016 SCC 27, \[2016\] 1 S.C.R. 631](#), the Supreme Court of Canada set limits on how long criminal cases should normally take. In provincial court, trials must be completed within 18 months of the charge being laid against the accused. This 18-month limit is known as a “ceiling”. Delays above this ceiling are presumed to be unreasonable unless the Crown shows exceptional circumstances. One type of exceptional circumstance is a particularly complex case.

This was a large drug trafficking case involving 18 accused persons. The trial followed a two-year investigation with a significant amount of evidence and several pre-trial proceedings. The Crown divided the accused persons into 10 prosecution groups to help manage the case more efficiently. Some accused persons were expected to challenge warrants and wiretap authorizations, which is called a *Garofoli* application. The Crown provided the individuals participating in the *Garofoli* application with trial dates that went beyond the 18-month ceiling. The individuals who were not participating in the *Garofoli* application were given trial dates below the ceiling.

The Crown gave the two accused persons in this case, Mr. Vrbanic and Ms. Josipovic, trial dates beyond the 18-month ceiling because it mistakenly believed they would participate in the *Garofoli* application. Their lawyers accepted the proposed dates at the time.

The two accused later applied for a stay of proceedings arguing that the delay violated their *Charter* right to be tried within a reasonable time. A stay of proceedings is a request to stop the trial. If accepted, it ends the case. The judge agreed because the delay was above the ceiling and was not justified by the complexity of the case. A majority of the Court of Appeal dismissed the Crown’s appeal. It held that the judge had properly applied the case complexity exception under *Jordan*. The Crown appealed to the Supreme Court of Canada.

The Supreme Court allowed the appeal, set aside the stay of proceedings, and sent the case back for trial. The judgment was delivered orally by Chief Justice Wagner on the day of the hearing with reasons to follow.

The Supreme Court clarifies the case complexity exception under *Jordan*.

Writing for the majority of judges, Chief Justice Wagner explained that the case complexity analysis has two stages. At the first stage, the Crown must prove two things: that the case is particularly complex and that it took reasonable steps to reduce the delay. If so, the judge continues to the second stage to decide whether the case complexity justified the delay.

Chief Justice Wagner explained that some cases require more time because they involve large amounts of evidence, multiple accused persons, or complicated pre-trial proceedings. In this case, the prosecution was particularly complex. The Crown had taken reasonable steps to reduce delay by dividing the accused into prosecution groups and using case management procedures. Although the Crown made a scheduling mistake, the complexity of the case clearly reasonably justified the delay.

Breakdown of the decision: *Majority:* Chief Justice [Wagner](#) allowed the appeal (Justices [Karakatsanis](#), [Côté](#), [Martin](#), [Kasirer](#), [Jamal](#), [O'Bonsawin](#) and [Moreau](#) agreed) | *Concurring:* Justice [Rowe](#) would also have allowed the appeal

More information: [Decision](#) | [Case information](#)

Lower court rulings: Stay of proceedings (Ontario Court of Justice – not available online) | [Appeal](#) (Court of Appeal for Ontario)

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