

JUSTICE DELAYED:

CASES AND CONSEQUENCES

1 SUPREME COURT OF CANADA: DECISIONS SETTING THE PRECEDENT

THE CASES: *R. v. Askov* (1990) and *R. v. Jordan* (2016)

THE CHARGES: Extortion and drug trafficking

In the case of *R. v. Askov*, the appellants were charged with conspiracy to commit extortion. The trial took place almost three years after the original charges were laid. The Supreme Court found the delay excessive and unreasonable and ordered a stay of proceedings. As a result of this precedent, almost 50,000 other criminal charges in Ontario were dismissed because of “unreasonable delay.”

In the 2016 case of *R. v. Jordan*, the Supreme Court dismissed the analysis developed in the *Askov* case and blasted the “culture of complacency towards delay” after a simple dial-a-dope drug prosecution dragged on for over four years. As a result, the court set ceilings beyond which a delay is presumptively unreasonable, if the total delay exceeds 30 months in superior courts and 18 months in provincial courts.

2 ORGANIZED CRIME

THE CASES: *R. v. Auclair* (2011) and *Berger c. R* (2015)

THE CHARGES: Drug trafficking and murder

In the case of *R. v. Auclair*, a stay of proceedings was ordered for charges of drug trafficking and organized crime. As a result, 31 accused were released. The courts were critical of the prosecutors in this case for their lack of preparation and for proceeding with all the charges without ensuring that Quebec’s justice system could handle them efficiently.

A Quebec police operation against alleged Hells Angels members called SharQc resulted in serious criminal charges laid against 156 people in 2009. Over 30 accused people were released due to delays and five men facing murder charges were freed after the Crown did not promptly turn over evidence.

3 SEXUAL ASSAULT

THE CASE: *R. v. Williamson* (2016)

THE CHARGE: Sexual assault

Ontario teacher Kenneth Williamson — who had been sentenced to four years in prison for dozens of sex attacks on a troubled 12-year-old boy — had his convictions set aside and his charges stayed by the Ontario Court of Appeal because of excessive delay. The appeals court — “with great reluctance” — found Williamson’s right to a trial within a reasonable time outweighed society’s interest in a trial on the merits of the case.

Any person charged with an offence has the right to be tried within a reasonable time.

— Section 11 (b), Canadian Charter of Rights and Freedoms

IMPAIRED DRIVING CASES AND THEIR IMPACT ON THE SYSTEM

IN 2013-14,

the Canadian court system saw

38,370 CASES

involving impaired driving.

The lengthy median time for
IMPAIRED DRIVING CASES
IN CANADA IN 2013-14 WAS
APPROXIMATELY 141 DAYS.

The volume of these cases creates a clog in the system. The committee is seeking more efficient ways of dealing with these types of cases to help alleviate the strain on the Canadian court system.

Impaired driving cases represent

11% of all criminal cases in Canada

BY THE NUMBERS

123 DAYS:

Median completion time in Canadian provincial courts

514 DAYS:

Median completion time in Canadian superior courts

451 DAYS:

Median time for homicide cases to conclude

321 DAYS:

Median time for sexual assault cases to conclude

NEXT STEPS >

The committee will continue its study this fall in hopes of discovering further innovative solutions to decrease delays. A final report will be released in 2017.