



Case Pre-Brief: **R. v. K.G.K.**

Hearing of September 25, 2019 | On appeal from the Court of Appeal of Manitoba  
NOTE: there is a publication ban in this case

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***This case is about the right to a criminal trial in a reasonable time. The Supreme Court has to decide if the time a judge takes to decide a case should count when deciding if a trial is taking too long.***

The *Canadian Charter of Rights and Freedoms* is part of Canada's Constitution. Section 11(b) says that anyone charged with a crime has the right to a trial in a reasonable time. The right is about fairness, but it doesn't just benefit the person charged with the crime. Long trials cause suffering and frustration for everyone involved. People accused of crimes don't know what is going to happen to them in the future. They often wait in jail while waiting for their trial. Victims and their families are left waiting for a final decision. The public doesn't see justice done.

The right to a trial in a reasonable time is important. It is so important that, if the trial doesn't happen fast enough, the trial might be stopped and the charges suspended. This is called a "stay of proceedings," and it's usually permanent. In 2016, the Supreme Court of Canada decided an important appeal, *R. v. Jordan*. It set out rules to decide how long is too long for a criminal case. It said certain charges should normally be dealt with within 18 months. Other charges should normally be decided within 30 months. Anything longer would be unfair, unless there was something unusual to justify it. A trial that takes too long will be stopped, and the charges will be "stayed." That means there will be no verdict of not guilty or guilty. No one wants to see people accused of crimes go free without a trial. But it is crucial to our democracy that people can get justice in a reasonable time.

K.G.K. was charged with sexual interference (touching someone under 16 in a sexual way). He was also charged with invitation to sexual touching (asking someone under 16 to touch someone else in a sexual way). These charges should have been decided within 30 months. The day before the judge found him guilty, K.G.K. asked for the trial to be stopped. He said it had taken too long. It had taken over 42 months from the time police charged him to the judge's decision. It took the judge nine months to decide the case and give the decision. K.G.K. said this was longer than the 30-month maximum, and there was nothing unusual in his case that could justify it. The Crown (the prosecution) argued that the time taken was justified. It said the judge's decision-making time didn't count toward the time limit.

The motions judge said the trial didn't take too long. A majority of the Court of Appeal agreed, but one judge dissented (disagreed). She said the decision-making time should count, so the trial was unfair and K.G.K. should go free. K.G.K. appealed.

The Supreme Court needs to give permission to hear appeals in most cases. One exception is when a Court of Appeal judge dissents on a legal issue in a criminal case. That's what happened in this case, so K.G.K. had a right to appeal without permission. This is called an appeal "as of right." Appeals as of right exist so the Court can clarify where there may be confusion about the law.

The Supreme Court will have to decide if the time a judge takes to make and write a decision should count when deciding if a trial is taking too long. During the hearing, the judges will listen to arguments from each side and ask questions. The judges could decide right away, or give their decision in writing later.

This case has a "publication ban." A publication ban means no one is allowed to publish certain things. "Publication" includes posting information online, like on a personal social media profile. In this case, no one can publish *anything* that might reveal who any complainants or witnesses are. The courts used K.G.K.'s initials because saying who he is could indirectly reveal the identities of other people involved in the case. The punishment for breaking the publication ban could be jail, a fine, or both. Publication bans are often used in sexual assault cases and cases involving young people, like this one. People can publish things about the case, as long as they don't reveal identities of people protected by the ban. They can also still watch the hearing and talk about it.

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**Judges hearing the case:** Chief Justice Richard [Wagner](#) and Justices Rosalie Silberman [Abella](#), Michael [Moldaver](#), Andromache [Karakatsanis](#), Suzanne [Côté](#), Russell [Brown](#), Malcolm [Rowe](#), Sheilah [Martin](#), and Nicholas [Kasirer](#)

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