



Case in Brief: **R. v. K.G.K.**

Judgment of March 20, 2020 | On appeal from the Court of Appeal of Manitoba  
Neutral citation: 2020 SCC 7

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***The right to be tried in a reasonable time protects accused persons when trial judges take too long to render their decisions, the Supreme Court has ruled.***

The *Canadian Charter of Rights and Freedoms* is part of Canada's Constitution. Under section 11(b), anyone charged with a crime has the right to be tried in a reasonable time. It protects both people accused of crimes and society. Long criminal trials cause suffering and frustration for everyone involved. People accused of crimes often sit in jail while waiting for their trial. Victims and their families are left waiting for a final decision. The public waits longer to see justice done. The right to be tried in a reasonable time is important. If an accused person's trial takes too long, it can be stopped. This is called a "stay of proceedings." It means there won't be a verdict of guilty or not guilty.

In July 2016, the Supreme Court of Canada decided an important appeal, *R. v. Jordan*. *Jordan* set out rules to decide how long is too long for a criminal trial. It said that most trials should finish either 18 or 30 months after a person is charged, depending on the type of trial. *Jordan* tells judges to "presume" (accept as true) that anything longer is "unreasonable," unless there is something unusual to justify it. (In this context, "unreasonable" basically means "too long.") If the time taken was unreasonable, the proceedings have to be "stayed." *Jordan* also set out special rules for cases like K.G.K.'s, which had already started when the rules changed. These were called "transitional" cases.

In 2013, K.G.K. was charged with sexual crimes against a child. His trial finished in January 2016. The trial judge took nine months to decide the case. In October 2016, he found K.G.K. guilty. The day before, K.G.K. asked for a stay of proceedings. He said that his case had taken longer than the usual 30-month maximum. He said the trial judge had taken too long to give his decision. The Crown (the prosecution) argued that the time taken was reasonable because K.G.K.'s case was "transitional". It said the trial judge's decision-making time didn't count toward the *Jordan* time limit.

The judge who dealt with K.G.K.'s request for a stay said the trial judge's time shouldn't be counted under *Jordan*. A majority of the Court of Appeal agreed.

All the judges at the Supreme Court agreed that the time a trial judge takes to decide a case doesn't count toward the *Jordan* time limit. The majority said at the time *Jordan* was decided, there was a real problem with delays in getting people to trial. The criminal justice system had become too accepting of those delays. But there wasn't any evidence of a problem with the time trial judges were taking to give their decisions. So *Jordan* didn't deal with that.

The majority created a new approach to decide if a trial judge has taken too long to give their decision. It said that trial judges should be presumed to take only the time necessary to deliver a fair decision. Trial judges know that criminal charges should be dealt with as quickly as possible. As the people dealing with all the evidence and arguments, they are in the best position to figure out how long they need to decide the case. Still, sometimes trial judges take too long. If the accused can show that the trial judge took "markedly longer" (a lot longer) than was reasonably necessary to make their decision, the proceedings will be stayed.

In this case, the majority said the trial judge took a long time, but not "markedly longer" than he should have. It also noted that the whole trial, and a lot of the time the trial judge took to decide, happened before *Jordan* came out. The majority said if this case had happened after *Jordan*, its decision would likely have been different. Besides the time the judge took, the majority said that any other delay in K.G.K.'s case was reasonable. This was because his case was "transitional."

This was one of two cases heard during the Supreme Court's [visit to Winnipeg](#), Manitoba in September 2019. It was the first time in history the Court sat outside of Ottawa.

**Breakdown of the decision:** *Majority:* Justice Michael [Moldaver](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Côté](#), [Brown](#), [Rowe](#), [Martin](#), and [Kasirer](#) agreed) | *Concurring:* Justice Rosalie Silberman [Abella](#) said courts shouldn't have to question a judge's integrity to find the decision-making time too long as this would create an impossible threshold and would weaken the right to a trial in a reasonable time

**More information (case # 38532):** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** [application for stay of proceedings](#) (Court of Queen's Bench of Manitoba) | [appeal](#) (Court of Appeal of Manitoba)

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