PROVINCIAL COURT OF NOVA SCOTIA
Citation: *R. v. Stuart*, 2017 NSPC 62

Date: 20171127
Docket: 2551148 to 2551152
Registry: Kentville

Between:

Her Majesty the Queen

v.

Ernest Andrew Stuart

APPLICATION UNDER SECTION 11(b) OF THE *CHARTER* FOR MOTION TO STAY

Judge:	The Honourable Judge Ronda van der Hoek
Heard:	Kentville, Nova Scotia
Decision	November 27, 2017
Charge:	Criminal Code of Canada 348(1)(d); 351(2); 344(1)(b) x 2; and 88
Counsel:	Jim Fyfe for the Crown Zeb Brown for the Defence

By the Court:

[1] Mr. Stuart seeks a judicial stay of proceedings as a result of a 58.5 month (four years and 10 months) delay between the laying of the Information (January 16, 2013) until the expected completion of his trial (November 29, 2017). The framework for a section 11(b) *Charter* application was recently set out by the Supreme Court of Canada in *Jordan*, 2016 SCC 27. There is no dispute that the period of delay begins when the Information is sworn. It is the responsibility of the state to bring an accused person to trial. The presumptive ceiling for this case is eighteen months. It is not complex (six witnesses over three days). The defence has not waived any delay. There is no dispute the delay is presumptively unreasonable.

[2] The delay being presumptively unreasonable, the Crown acknowledges it must establish the presence of exceptional circumstances and argues the inability, on the part of police, to execute the warrant is such an exceptional circumstance. If the Crown cannot satisfy me this is the case, the delay is unreasonable and a stay will be entered.

[3] So, ultimately there are two issues in this case. First, is the time between the police obtaining the warrant on January 23, 2013 and the time it took to execute it,

January 23, 2017, an exceptional circumstance that serves to rebut the presumption of unreasonableness? Secondly, since this is a transitional case, was the pre-arrest delay acceptable under the pre-*Jordan* framework?

[4] I ultimately conclude that the police did not act reasonably in executing the warrant and, even under the *Morin* framework, this delay is so long that Mr. Stuart's right to a trial within a reasonable time was violated. As a result, I am granting his application for a stay of proceedings. These are my reasons for doing so.

Actions of the police:

[5] Mr. Stuart was charged on January 16, 2013, following an investigation into a May 9, 2011 home invasion involving six masked persons. Cst. Dayle Burris was the lead investigator when five people were sequentially identified and arrested between April 16, 2012 and November 2012.

[6] In November 2012, Cst. Burris familiarized himself with a recognizance Mr. Stuart had entered into on May 1, 2012. It contained a reside clause for Apt 2, **6124** Lawrence Street, Halifax. Cst. Burris directed the Halifax Regional Police (HRP) to Mr. Stuart's Halifax address, and his notes record the address as **6125**, Apt 2 Lawrence Street. This is not the address on the recognizance. He testified that his

notes of November 25, 2012 reflect "he did not live there anymore". The HRP officer did not testify, the identity of the person who answered the door is unknown, as is what was asked of that person. Additionally, there was no clarity as to what the person actually said or even meant by the recorded response. The landlord was not contacted etc. There was absolutely no follow up after this visit to the wrong address. Nobody attended the correct address.

[7] While asked to do so, I can neither conclude that the HRP officer went to the correct address, nor can I conclude that the person who answered the door even knew Mr. Stuart and was correctly reporting that he had lived there at one time and subsequently moved. It is fair to say that in this part of Canada, at least, "he/she does not live here anymore" is not an unusual answer to a knock on an apartment door, whether the previous tenant was or was not known. By illustration, even "buddy" who hits my car is likely not my friend. That said, there is a glaring lack of evidence on which I can reach the conclusion asked of me by the Crown, and I cannot conclude that these efforts to locate Mr. Stuart were diligent and reasonable.

[8] Mr. Stuart was bound by an eighteen month probation order dated February 2012 requiring him to reside at **6142**, Apt. 2 Lawrence Street, Halifax. Cst. Burris contacted Mr. Stuart's probation officer on December 20, 2012. Cst. Burris

determined there were no appointments scheduled and the last contact between Probation Services and Mr. Stuart was in July 2012. The Probation Officer agreed to try to contact Mr. Stuart's girlfriend. Cst. Burris followed up with the Probation Officer again on January 2, 2013 and learned that there was no new information about Mr. Stuart's whereabouts.

[9] There was no police visit to the 6142 address on the probation order, which in any event was not the same address as that of the recognizance. I likewise cannot conclude that Probation Services ever visited the address on the probation order to ascertain Mr. Stuart's whereabouts. There was no evidence from them. Perhaps they relied on Cst. Burris' that Mr. Stuart was not at his address (an incorrect one), but I cannot speculate in the absence of evidence.

[10] Cst. Burris swore an Information charging Mr. Stuart on January 16, 2013. He went to court on January 23, 2013 and obtained a public interest warrant. I do not know what was told to the Court that issued that warrant. He posted it to CPIC on January 30, 2013.

[11] Other warrants would be issued months later for Mr. Stuart. One for breach of the probation order mentioned above (October 30, 2013), the other for failing to attend court in relation to the matter for which he had entered into the recognizance

(June 4, 2013). There was no evidence before me of efforts taken to locate Mr. Stuart on the part of the officer(s) involved in those other cases.

[12] With regard to the case before me, the efforts to locate Mr. Stuart after the warrant was issued are as follows: Cst. Burris was told by one of the other people charged in this matter that he might be with his mother in the Halifax area or in Ontario. There was no follow up on either lead. A check of CPIC indicated that Mr. Stuart had had past involvement with the Guelph, Ontario police, but they were never contacted. Police databases also listed at least three phone numbers, indicated as “active”, for Mr. Stuart and none were called.

[13] Cst. Burris believed that if another Canadian police force came in contact with Mr. Stuart they would see the warrant on CPIC and he would be arrested. It was not this practice to call listed phone numbers in case it alerted an accused that they were looking for him. One might think doing so could have served to locate Mr. Stuart but, again, I cannot speculate.

[14] Before being transferred to Halifax in September 2013, Cst. Burris checked a number of police databases finding no police contact with Mr. Stuart. The file was transferred to Cst. Morrison.

[15] Between September 2013 and February 2015 there was no action on Mr. Stuart's case until Cst. Morrison spoke to Cst. Burris and was reminded of the outstanding warrant. Cst. Morrison recalled some conversation between the two about Mr. Stuart possibly being in Ontario. He made a note in February 2015 to continue monitoring the file, but did not actually do any such monitoring of police databases at the time the note was made.

[16] Cst. Morrison testified that, "following RCMP protocol", he commenced biannual checks of various police databases starting on June 2, 2015, and continuing on February 16, 2016 and June 21, 2016, all with negative results. Cst. Morrison believed it was standard police practice that any other police force coming in contact with Mr. Stuart would see the warrant listed on CPIC and contact the NS RCMP.

[17] On January 2, 2017, Cst. Morrison finally ran a successful CPIC check and determined Mr. Stuart had been in contact with the Guelph, Ontario police three times. Not incidentally, older information on the police databases recorded Guelph as Mr. Stuart's home for a long time prior to moving to Nova Scotia.

[18] The first time Guelph police had contact with Mr. Stuart was on July 3, 2016 a few weeks after Cst. Morrison's last biannual CPIC check on June 21, 2016. Mr.

Stuart was also in contact with Guelph police on August 15, 2016 and August 29, 2016.

[19] Cst. Morrison decided to contact the Guelph Police to follow up. He did not, and a few weeks later they called him to advise that Mr. Stuart had been arrested and was in custody. On January 23, 2017 the Nova Scotia warrant was extended and Mr. Stuart returned to Nova Scotia on January 26, 2017.

Analysis:

[20] In assessing the delay, I considered the actions of the police in executing the warrant and asked myself whether those actions were reasonable. Ultimately, I conclude that the police sought a warrant and did not make reasonable efforts to execute it. It was not reasonable for the police to simply register the warrant on CPIC and rely on other police services to advise if they had contact with Mr. Stuart. After almost two years of complete inaction, the new investigative officer assigned to the case simply conducted twice yearly checks of CPIC and other databases- a few minutes of investigation biannually. Those checks alone were not reasonable and did nothing to render the earlier inactivity reasonable.

[21] Cst. Morrison seemed surprised by defence counsel's questions asking why he did not follow up with the mother, the other addresses, or the active phone

numbers. He thought those things had already been done. Cst. Burris did not consider doing those things or had unacceptable reasons for not doing so. He did not know where Mr. Stuart's mother lived, it was not his practice to call phone number's associated to a wanted accused person, and finally he was not diligent in ensuring all addresses were viable and visited. I accept that both officers were very busy with other files, however, the *Charter* and section 511 *CC* require diligence and reasonable efforts to execute a warrant sought from the Court.

[22] Finally, the fact Mr. Stuart was not located until Guelph police contacted the local RCMP in January 2017, seven months after the first of three interactions with him, firmly establishes that reliance on CPIC alone was ill advised and ultimately not reasonable.

[23] The Crown relies on *R. v. Magiri*, 2017 ONSC 2818, sitting as a trial court. That Court concluded that while delay is calculated from date of charge, the time between charge and arrest can be counted as a discrete event and an exceptional circumstance which should be deducted from the total delay. Mr. Magiri had been cooperative with police, even giving a DNA sample before he disappeared from the country. The police telephoned him on numerous occasions and made multiple visits to his residence. The Court concluded "cases requiring the extradition of an

accused from a foreign jurisdiction" was an example of an exceptional circumstance.

[24] The Crown also relies on *R. v. McCullough*, 2017 SKQB 113, sitting as a trial court. That Court concluded a ten year period between charge and arrest did not result in a breach of the section 11(b) *Charter* right. The trial judge adopted the dissent in *R. v. Kalanj* [1989] 1 SCR 1594, and concluded that *Jordan* provides no guidance on calculation of the starting date for the purposes of assessing the reasonableness of delay to trial. Mr. McCullough was aware that he was under investigation for sexual assault and, after meeting with police, disappeared. The Court was obviously concerned that people could simply hide away to frustrate police efforts to locate them.

[25] *Magiri* and *McCullough* are distinguishable from the case at bar. Those Courts determined that the police had been "more than diligent with the constant checking" after the warrant was issued and "exhausted all reasonable efforts" to locate the accused. Also, both men were in contact with police during the investigation and absconded. There is no evidence before me that Mr. Stuart was aware of the investigation, and police were neither diligent nor reasonable in their efforts to locate him.

[26] I liken Mr. Stuart's situation more closely to that of *R. v. Sundralingam,* 2017 OJ No 3097, where the police laid the charge and obtained a warrant without attending at either address provided them by the complainant. He was arrested two years later and was successful in his 11(b) *Charter* application for a stay. Mr. Stuart's two addresses and his phone numbers were not contacted. There was no effort to locate his mother in Halifax or review/consult the databases to determine where in Ontario he had once resided.

[27] In a judgment of the British Columbia Provincial Court, *R. v. Chan*, 2008 BCPC 95, Watchuck P.C.J. carefully examined the responsibility of the Crown to bring the accused before the Court:

> 41 Section 511 of the *Criminal Code* provides that warrants will be executed forthwith, thus periods of inaction or inattention on the part of the Crown or its agents can be counted toward a finding of unreasonable delay. The case law cited in support is: *R. v. Satari,* [1991] B.C.J. No. 3961 ["*Satari*"] (17 1/2 month delay due to failure to execute warrant found to be unreasonable) and *R. v. Duncan*, [2007] B.C.J. No. 971, 2007 BCPC 126 (CanLII) (7 1/2 year delay).
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> 42 Police are required to make more than perfunctory efforts to locate the accused: *R. v. Gagnon*, [1994] B.C.J. No. 818 at para. 25. Reasonable efforts must be made to locate the accused to execute the warrant, such as attending the accused's residence or attempting to locate the accused by telephone: *Satar*i at p. 4; *R. v. Yellowhorse*, [1990] A.J. No. 964 ["*Yellowhorse*"] at p. 5. It is seldom, if ever, sufficient to simply post the warrant on CPIC: see *R. v. Wright*, [2003] A.J. No. 1540, 2003 ABQB 1003 (CanLII) ["*Wright*"] at para. 22; *Yellowhorse* at p. 5.
> ...
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> 43 It is the Crown's responsibility, through its agents, the police, to find an accused and either execute an arrest warrant or serve a summons compelling an individual to come to court to answer charges. An accused has no obligation to

> make himself available to the police or authorities for the execution of an arrest warrant: *R. v. Lopes*, [2008] O.J. No 573 (Sup. Ct.) at para. 16-17. In cases where the accused was unaware of the charges against him or her, such as this case, the matter can be further distinguished, as the obligations on persons in the community do not extend to contacting the police and the courts on a regular basis to see if he or she might be charged with a criminal offence: see *Wright* at para. 27. It is the responsibility of the state to bring him or her to trial within a reasonable time: *R. v. Ram*, [1993] B.C.J. No. 1492 at para. 7.

[28] Having determined that the police efforts were not reasonable, I decline to deduct the relevant time period from the overall delay. It is not an exceptional circumstance or discrete event as envisioned in *Jordan*. As a result, the total delay is over 58 months. That said, I must consider this case in light of the SCC's characterization of the transitional case. The SCC released *Jordan* on July 8, 2016. Between that time and November 29, 2017, expected conclusion of this trial, 17 months were added to the unexecuted warrant time period.

Transitional Case:

[29] In assessing transitional case considerations, I conclude that the Crown has failed to establish that it reasonably relied on the pre-*Jordan* case law. Mr. Stuart is not responsible for any delay. Warrants must be executed forthwith, and the two year period of complete inaction, followed by biannual database checks, combined with failure to follow up on addresses and make phone calls to active phone

numbers, resulted in a degree of inaction on the part of the police that counts against the Crown and contributes to the finding of unreasonable delay.

[30] The Crown asked me to find there is no prejudice to Mr. Stuart arising from any delay in bringing him to trial. I disagree and infer prejudice as a result of the very long delay; even pre-*Jordan* this length of time is much too long.

Analysis - Transitional Exceptional Circumstances for Cases Already in the System:

[31] The *Jordan* framework is to be applied "contextually and flexibly for cases currently in the system." The new framework is a departure from the law that was applied to section 11(b) applications in the past, and the SCC did not want to create "swift and drastic consequences" which might risk undermining the integrity of the administration of justice. For those reasons, the majority of the SCC held that the new framework, including the presumptive ceilings, applies to cases currently in the criminal justice system, subject to two qualifications:

1. Reliance on the Previous Law.
2. Jurisdictions with Significant Institutional Delay: There is no significant institutional delay in Kentville Provincial Court at present.

[32] Should the Crown prove that the time which this case has taken is justified, based upon the parties' reasonable reliance on the pre-*Jordan* law, this reliance will constitute "transitional exceptional circumstance" justifying delay over the presumptive ceiling. *Jordan* requires a contextual assessment, sensitive to the way the previous framework was applied. Pre-*Jordan*, prejudice and the seriousness of the offence can play a decisive role in whether delay was unreasonable under the previous framework. The parties' behavior cannot be judged strictly against a standard of which they had no notice.

[33] These considerations can inform my decision as to whether the parties' reliance on the previous state of the law was reasonable. I must also evaluate whether enough time has passed for the parties to "correct their behavior and the system has had some time to adapt" before determining that the transitional exceptional *circumstance* exists" [*Jordan* at para. 96].

[34] At this time, it is appropriate to consider the interests s. 11(b) seeks to protect:

> *– the right to security of the person, which is protected by seeking to minimize the anxiety, stigma and concern arising from criminal proceedings;*
> *– the right to liberty, which is protected by seeking to minimize exposure to restrictions on liberty; and*

> *– the right to a fair trial, which is protected by ensuring that proceedings take place when evidence is available and fresh.*
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> *R. v. Morin*, [1992] 1 SCR 771, at paras. 26 - 28.

[35] Society has an interest in seeing that those who are accused of crimes are treated humanely. Prompt trials serve this purpose. As well, society has an interest in law enforcement and seeing that persons charged with offences are brought to trial and dealt with according to law. *Morin*, *supra* at paras. 29, 30.

[36] The *Morin* case did not set out a mathematical formula for determining when a delay will be unreasonable. Rather, that Court directed trial judges to look at the length of the delay and evaluate it in light of other factors, including the interests the section is intended to protect. The Court should look at the length of the delay, whether there was a waiver, reasons for the delay and prejudice to the accused. *Morin*, *supra* at para. 31.

[37] Liberty and security interests are not an issue in this case, Mr. Stuart was, presumably, not aware of charges until January 2017 when he came into custody. Fair trial interests and prejudice to Mr. Stuarts' ability to make full answer and defence are the issues I must consider. The constitutional guarantee to trial within a reasonable time also seeks to further the fair trial interests of an accused person. It has been observed that witnesses' memories are likely to be more reliable closer to

the relevant event and that there is a priority in holding a criminal trial while the evidence is available and fresh (*R. v. Askov*, [1990] 2 S.C.R. 1199 [*"Askov"*] at page 298; *R. v. Morin*, *supra,* at page 12).

[38] In a prosecution where *viva voce* testimony plays a central role, it is open to infer that the passage of time will dull memories *R. v. Rahey*, [1987] 1 S.C.R. 588, at para 69. The Courts have recognized that if the convicted person wishes to call witnesses, the passage of time may adversely affect his or her ability to do so. It goes without saying but Mr. Stuart is in a very different position in November 2017 than he would have been if the state had taken reasonable steps to locate him and make him aware of these charges.

[39] In *R. v. Godin*, [2009] 2 SCR 3, Cromwell J. noted that proof of actual prejudice, to this fair trial right, is not required, at paras. 37 and 38:

> [37] It is difficult to assess the risk of prejudice to the appellant's ability to make full answer and defence, but it is also important to bear in mind that the risk arises from delay to which the appellant made virtually no contribution. Missing from the analysis of the majority of the Court of Appeal, in my respectful view, is an adequate appreciation of the length of the delay in getting this relatively straightforward case to trial. As noted already, prejudice may be inferred from the length of the delay.
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> [38] Moreover, it does not follow from a conclusion that there is an unquantifiable risk of prejudice to the appellant's ability to make full answer and defence that the overall delay in this case was constitutionally reasonable. Proof of actual prejudice to the right to make full answer and defence is not invariably required to establish a s. 11(*b*) violation. This is only one of three varieties of prejudice, all of which must be considered together with the length of the delay and the explanations for why it occurred.

[40] In *Askov, supra*, Cory J. for the majority placed the onus on the Crown to demonstrate that an accused has not been prejudiced in cases where there has been long delay. He stated at p. 1230:

> The different positions taken by members of the Court with regard to the prejudice suffered by an accused as a result of a delayed trial are set forth in *Mills* [1986 CanLII 17 (SCC), [1986] 1 S.C.R. 863]and *Rahey* [1987 CanLII 52 (SCC), [1987] 1 S.C.R. 588]. Perhaps the difference can be resolved in this manner. It should be inferred that a very long and unreasonable delay has prejudiced the accused. As Sopinka J. put it in *Smith, supra*, at p. 1138:
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> > Having found that the delay is substantially longer than can be justified on any acceptable basis, it would be difficult indeed to conclude that the appellant's s. 11(*b*) rights have not been violated because the appellant has suffered no prejudice. In this particular context, the inference of prejudice is so strong that it would be difficult to disagree with the view of Lamer J. in *Mills* and *Rahey* that it is virtually irrebuttable.
> >
> > Nevertheless, it will be open to the Crown to attempt to demonstrate that the accused has not been prejudiced. This would preserve the societal interest by providing that a trial would proceed in those cases where despite a long delay no resulting damage had been suffered by the accused. Yet, the existence of the inference of prejudice drawn from a very long delay will safely preserve the pre-eminent right of the individual. Obviously, the difficulty of overcoming the inference will of necessity become more difficult with the passage of time and at some point will become irrebuttable. Nonetheless, the factual situation presented in *Conway* serves as an example of an extremely lengthy delay which did not prejudice the accused. However, in most situations, as Sopinka J. pointed out in *Smith*, the presumption will be "virtually irrebuttable".

[41] In *R. v. Patrick*, 2012 SKQB 331, a delay shorter than the one this Court resulted in a stay following an inference of prejudice in accordance with *MacIntosh*. McMurty J. said:

> [32] I agree with the accused that with the inordinate delay that has occurred, there is a very real risk to his right to make full answer and defence. However, whether or not the accused had been able to demonstrate actual prejudice to his fair trial interests, in this case it may be inferred given the length of time between the laying of the charges and the proposed trial. Fifty-four and a half months is excessive and the Crown is solely responsible for 30 months of that delay.
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> [33] I find the accused's right to a trial within a reasonable period of time under *s. 11(b)* of the *Charter* has been infringed. He is entitled to a remedy, therefore. As stated by the Nova Scotia Court of Appeal in *MacIntosh, supra,* "it is well accepted that the minimum remedy for such an infringement is a stay of proceedings". Accordingly, the charges against the accused, set for trial on September 10, 2012, are stayed.

Actions of Mr. Stuart:

[42] There is no evidence that Mr. Stuart was aware of the charges. I cannot infer he was made aware by any of the other five people charged with the same offences he now faces. I cannot assume that he fled the jurisdiction because of these charges. His breach of probation charge and failure to comply with an unrelated recognizance, likewise does not support an inference that he absconded to avoid prosecution for these charges. There is no evidence.

[43] The evidence is that Mr. Stuart had two different addresses, one on a probation order and the other on a recognizance. There is no evidence that any police force sought him at either address. I do know that he lived in Guelph, Ontario in July 2016 when he came into contact with Guelph police. None of the pre-*Jordan* delay can be attributed to Mr. Stuart, and there will be no deduction of any pre-*Jordan* time on account of his actions.

Actions of the Crown:

[44] The Defence submits that the failure to execute the warrant caused unreasonable delay attributable to the Crown and its agents. Section 511 of the *Criminal Code* provides that warrants will be executed forthwith, thus periods of inaction or inattention on the part of the Crown or its agents can be counted toward a finding of unreasonable delay.

[45] The police are required to make more than perfunctory efforts to locate the accused: *R. v. Gagnon*, [1994] B.C.J. No. 818, at para. 25. Reasonable efforts must be made to locate the accused to execute the warrant, such as attending the accused's residence or attempting to locate the accused by telephone: *R. v. Satari*, [1991] B.C.J. No. 3961, at p. 4; *R. v. Yellowhorse*, [1990] A.J. No. 964 ["*Yellowhorse*"] at p. 5. It is the Crown responsibility through its agents, the police,

to find an accused and serve process upon him. He has no obligation to make himself available. It is seldom, if ever, sufficient to simply post the warrant on CPIC: see *R. v. Wright*, 2003 ABQB 1003 ["*Wright*"] at para. 22; *Yellowhorse* at p. 5. On the facts, no attempts were made to locate or contact Mr. Stuart after the visit to the incorrect address in 2012. The warrant, once issued, was simply posted on CPIC with no database follow-up until 2015 and then on a biannual basis.

Inferred or presumed prejudice:

[46] The Court may infer or presume the existence of prejudice or it may be otherwise proven. According to the SCC in *Morin*, the inference of prejudice from a very long delay becomes nearly irrebuttable. In *R. v. Conway*, [1989] 1 S.C.R. 1659, at page 334, Sopinka J. (dissenting in the result) observed that unreasonable delay is virtually synonymous with prejudice to security interests.

[47] The question of prejudice cannot be considered separately from the length of the delay. As Sopinka J. wrote in *Morin*, at p. 801, even in the absence of specific evidence of prejudice, "prejudice may be inferred from the length of the delay. The longer the delay the more likely that such an inference will be drawn." ...

[48] When will a delay be considered sufficiently excessive so as to invoke a presumption of prejudice? The mere passage of time can only be an issue where

the institutional delay is so egregious that the Court must exercise the duty imposed upon it by *Morin* to ensure that s. 11(b) of the *Charter* is not rendered meaningless. Defining how long an institutional delay must be to constitute the label of "egregious" has varied widely from case to case. However, the outer limit for a reasonable period of time between the laying of an information and the end of trial (as defined by McLaughlin J. in *Morin*) is roughly 18 months.

Stays Entered When Delay Vastly Exceeds the Presumptive Ceiling:

[49] In *Jordan*, the SCC made clear if the delay in a simple case vastly exceeds the ceiling and the Crown caused the delay, section 11(b) breaches may still be found and stays entered for cases currently in the system, if the delays were due to the "repeated mistakes or missteps by the Crown or the delay was unreasonable even though the parties were operating under the previous framework." This analysis must be contextual and the SCC stated that they relied on the "good sense of trial judges to determine the reasonableness of the delay in the circumstances of each case."

Conclusion:

[50] While this case was started well before the release of *Jordan*, it is not evident that the Crown was relying on the *Morin* framework. Even after the release of the *Jordan* decision on July 3, 2016, the next database check was not conducted by police until six months later January 2, 2017.

[51] Even if *Jordan* had not been decided in July 2016, the delay in bringing Mr. Stuart to trial is too long and his right to a trial within a reasonable time was violated. As a result, I am granting his application for a stay of proceedings.

The Honourable Judge Ronda van der Hoek