

CANADA / JUDGMENT

R. v. J.H.

2026 ONCA 16

COURT

Court of Appeal for Ontario

DECIDED

15 January 2026

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R. v. J.H. Collection Decisions of the Court of Appeal Date 2026-01-15 Neutral citation 2026 ONCA 16 Docket numbers COA-24-CR-0882 Judges Favreau, Lise G.; Copeland, Jill M.; Dawe, Jonathan Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. J.H., 2026 ONCA 16[1] DATE: 20260115 DOCKET: COA-24-CR-0882 Favreau, Copeland and Dawe JJ.A. BETWEEN His Majesty the King Respondent and J.H. Appellant Jocelyn Rempel, for the appellant Maria Anghelidis, for the respondent Heard: December 4, 2025 On appeal from the convictions entered by Justice Norman D. Boxall of the Ontario Court of Justice, on January 9, 2024. REASONS FOR DECISION

- [1] The appellant appeals from conviction on 10 counts of domestic violence-related offences committed in relation to his then-girlfriend. The only grounds of appeal relate to the trial judge's dismissal of the appellant's application for a stay of proceedings for unreasonable delay, pursuant to s. 11(b) of the Canadian Charter of Rights and Freedoms.
- [2] The total delay in this case was approximately 21.5 months. The trial judge found that the delay above the presumptive ceiling of 18 months was justified by a combination of a discrete exceptional circumstance and particular complexity of the case. The discrete exceptional circumstance was the good faith underestimation of the time required for trial. The appellant does not challenge the trial judge's finding in relation to the misestimation of the trial time as a discrete exceptional circumstance.
- [3] The appellant argues that the trial judge erred in finding that the appellant's case was sufficiently complex to justify over-the-ceiling delay. In particular, the appellant argues that this case bore only a few of the hallmarks of particularly complex cases enumerated in R. v. Jordan, 2016 SCC 27, [2016] 1 S.C.R. 631, at para. 77. The appellant further argues that the trial judge erred by treating the seriousness of the offence as a hallmark of complexity.
- [4] We are not persuaded that the trial judge erred.

- [5] On appellate review of a s. 11(b) decision, deference is owed to a trial judge's underlying findings of fact. Characterization of periods of delay and the ultimate decision concerning whether there has been unreasonable delay are reviewable on a standard of correctness: *R. v. Pauls*, 2020 ONCA 220, 149 O.R. (3d) 609, at para. 40, *aff'd* *R. v. Yusuf*, 2021 SCC 2, [2021] 1 S.C.R. 5; *R. v. Jurkus*, 2018 ONCA 489, 363 C.C.C. (3d) 246, at para. 25, leave to appeal refused, [2018] S.C.C.A. No. 325.
- [6] In the absence of an error in the legal principles applied, a trial judge's assessment of the complexity of a case, and whether the Crown used reasonably available tools to minimize delay, are "well within the trial judge's expertise" and entitled to deference: *Jordan*, at paras. 77-79; *R. v. Morash*, 2021 ONCA 335, 405 C.C.C. (3d) 468, at para. 35; *R. v. Wookey*, 2021 ONCA 68, 400 C.C.C. (3d) 290, at para. 88; *R. v. Bulhosen*, 2019 ONCA 600, 377 C.C.C. (3d) 309, at para. 103, leave to appeal refused, [2019] S.C.C.A. No. 423.
- [7] The assessment of whether a case is particularly complex such that it can justify delay based on exceptional circumstances involves a qualitative, not a quantitative assessment: *R. v. Cody*, 2017 SCC 31, [2017] 1 S.C.R. 659, at para. 64. The complexity assessment must focus on whether, because of the nature of the evidence or the nature of the issues, the case requires an inordinate amount of trial time or preparation time: *Jordan*, at paras. 77-79.
- [8] The appellant's argument that there were not sufficient hallmarks of complexity seeks to turn the qualitative analysis of whether a case is particularly complex into a counting exercise of the number of hallmarks of complexity. This is contrary to the approach in *Jordan* and *Cody*, which requires that complexity be assessed by looking at the case as a whole and emphasizes the expertise of trial judges to engage in this wholistic assessment of the complexity of a case.
- [9] The trial judge assessed complexity using the correct framework from *Jordan*. He considered all of the circumstances and looked at the case as a whole, rather than parsing individual steps or factors, consistent with the approach in *Cody*, at para. 64. He gave particular weight to the following factors: the large number of charges; the nature of the charges; the period of time over which the charges took place; the significant number of pre-trial and mid-trial applications on procedural and evidentiary issues; the complexity of scheduling some of the pre-trial applications because it was necessary to schedule them separately from the trial dates so rulings could be provided and the parties could take next steps; and the length of the trial – 17 days of trial time – which he found was "exceptional" for the Ontario Court of Justice in Ottawa. The trial judge further found, following the analysis required by *Jordan* at paras. 69-70, that the Crown, with the cooperation of the defence, had taken reasonably available steps to minimize the delay.
- [10] Given the deference accorded to trial judges in the assessment of complexity, we see no basis to interfere with the trial judge's weighing of all the circumstances, nor with his conclusion that the case was sufficiently complex to justify the delay on the basis of exceptional circumstances.

- [11] We also reject the appellant's submission that the trial judge relied on the seriousness of the offence as a marker of complexity, which would be contrary to the direction in *Jordan*, at para. 81.
- [12] At no point did the trial judge refer to the seriousness or gravity of the offences as a factor in his complexity analysis; rather, he referred to "the nature of the charges". In our view, when one reads the passage of the reasons in which the trial judge refers to "the nature of the charges" in context, it is clear that he was not referring to the level of seriousness or gravity of the offences charged. Rather, he was referring to the procedural complexities that frequently accompany sexual assault charges. Although the appellant was ultimately acquitted of the two counts of sexual assault among the 24 counts against him, those counts contributed to the complexity of the prosecution. We see no basis to interfere with the trial judge's finding that in the circumstances of this case, the nature of the charges contributed to the procedural complexity of the case.
- [13] As a result of our conclusion that the trial judge did not err in his complexity analysis, it is not necessary to address the Crown's argument, seeking to uphold the result on other grounds, that an additional time period ought to have been deducted as delay solely caused by the defence.
- [14] The appeal is dismissed. "L. Favreau J.A." "J. Copeland J.A." "J. Dawe J.A."
- [1] This appeal is subject to a publication ban pursuant to s. 486.4 of the Criminal Code, R.S.C. 1985, c. C-46.

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