ONTARIO COURT OF JUSTICE

DATE: 2025 October 9
COURT FILE No.: London 23-23107270

B E T W E E N :

HIS MAJESTY THE KING

— AND —

AMANDEEP WRAICH

Before Justice T. Stinson
Heard on December 2, 2024, January 6, 2025, July 14, 2025, and August 18, 2025
Reasons for Judgment released on October 9, 2025

Delaney Dickson and Gillian Turvey ..... counsel for the Crown
Rupin Singh Bal and S. Raina..... counsel for the defendant Amandeep Wraith

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STINSON J.:

INTRODUCTION

[1] It is alleged that on September 20, 2023, Amandeep Wraich ("Wraich") committed the offence of having a blood alcohol concentration that was equal to or exceeded 80 milligrams of alcohol in 100 millilitres of blood, within two hours after ceasing to operate a conveyance, contrary to section 320.14(1)(b) of the *Criminal Code of Canada*, RSC 1985, c. C-34 (the "*Code*"). The Crown proceeded summarily.

THE BACKGROUND FACTS OF THE OFFENCE

[2] Many of the facts concerning the events that occurred that day between Wraich and the investigating officers from the Ontario Provincial Police (the "OPP") are not in dispute. These include the following:

[3] Wraich was driving a truck on Highway 401 on September 20, 2023. Responding to a call for service to investigate a truck driver, PC Michael Cerovich ("Cerovich"), of the OPP observed Wraich's truck at 12:18 p.m., noting that it matched the description of the truck that had been called in. A traffic stop then occurred.

[4] Cerovich read an approved screening device ("ASD") demand, pursuant to section 320.27 of the *Code*, to Wraich at 12:26 p.m. Wraich then provided a suitable breath sample and registered a fail. Cerovich arrested Wraich at 12:29 p.m.

[5] Wraich was advised of his rights to counsel, caution and a breath demand between 12:31 and 12:34 p.m. Wraich's tractor trailer was then searched. Once this was complete, Wraich was transported to the local OPP detachment at 12:48 p.m., arriving at 1:03 p.m. He was put onto a phone call with his apparent counsel of choice at 1:17 p.m.

[6] After completing this phone call, Wraich was handed over to a breath technician and two readings were obtained. The first sample, taken at 1:48 p.m., showed that Wraich had 239 milligrams of alcohol in 100 millilitres of blood. The second sample, taken at 2:09 p.m., showed that Wraich had 238 milligrams of alcohol in 100 millilitres of blood.

[7] It goes without saying that both samples are far beyond the legal limit and easily make out the offence with which Wraich was charged.

ALLEGED *CHARTER* VIOLATIONS

[8] Notwithstanding this substantial agreement on the factual underpinnings of the events that led to Wraith being charged, defence counsel argues that many of the OPP's activities during those events resulted in breaches of the *Canadian Charter of Rights and Freedoms*, being Part I of the *Constitution Act, 1982*, enacted by the *Canada Act 1982 (U.K.)*, c. 11 (the "*Charter*"). Defence counsel specifically alleges that Wraich's rights pursuant to sections 7, 8, 9, 10(a), 10(b) and 11(d) were breached during the police investigation.

[9] As well, counsel allege that, since he was arrested, Wraich's section 11(b) *Charter* rights have been violated.

[10] I will briefly review the originally alleged *Charter* violations at this time. Though it obviously did not arise at the same time as the other alleged *Charter* violations, I will then review the alleged section 11(b) breach and rule on it before considering the merits of any other alleged violations. My decision on the section 11(b) application may be dispositive of this entire matter.

THE ALLEGED SECTION 7 BREACH

[11] Section 7 of the Charter reads as follows: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

[12] The right to make full answer and defence is included within section 7 of the *Charter.*

[13] The defence alleges that the Crown failed, for a substantial length of time, to disclose video of Wraich while he was lodged in the cells at the police station. This video, defence alleges, outlines a breach of Wraich's section 8 *Charter* rights.

THE ALLEGED SECTION 8 BREACH

[14] Section 8 of the *Charter* reads as follows: "Everyone has the right to be secure against unreasonable search or seizure."

[15] Defence counsel alleges that the section 8 right includes an individual's privacy interests. They argue that these rights of Wraich were violated, as set out in the decision of *R. v. Mogk*, 2014 ONSC 64, when Wraich was recorded, in his cell, standing in front of the in-cell toilet and urinating into it.

THE ALLEGED SECTION 9 BREACH

[16] Section 9 of the *Charter* reads as follows: "Everyone has the right not to be arbitrarily detained or imprisoned."

[17] In this case, Wraich was arrested without a search warrant having been issued. The authority for the police to do so is found in section 495(1)(a) of the *Code*. It reads: "A peace officer may arrest without warrant a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence."

[18] Defence counsel argues that Wraich was effectively detained from the time of the stop at 12:18 p.m. as he was not informed by Cerovich of the reasons for his detention. The arbitrary detention continued with the reading of the ASD demand that was not compliant with the *Code*.

THE ALLEGED SECTION 10(a) BREACH

[19] Section 10(a) of the *Charter* reads as follows: "Everyone has the right on arrest or detention to be informed promptly of the reasons therefor."

[20] Wraich argues that his rights in this respect were violated because he was not aware of the reasons for his detention until he was read the ASD demand at 12:26 p.m., some minutes following his initial detention.

THE ALLEGED SECTION 10(b) BREACH

[21] Section 10(b) of the *Charter* reads as follows: "Everyone has the right on arrest to retain and instruct counsel without delay and to be informed of that right."

[22] Defence counsel's argument is that, pursuant to the Supreme Court of Canada's decision in *R. v. Suberu*, 2009 SCC 333 at paragraphs 41 and 42, there is a duty to inform a detainee of his or her right to retain and instruct counsel, and a duty of facilitate that right immediately upon detention.

[23] Wraich did have a phone call with Amin Buttar, whom he had told the police was his counsel of choice. However, as it turned out, Mr. Buttar is a paralegal, not a lawyer, and, according to defence counsel, Wraich's attempts to have a call with an actual lawyer were ignored by the officers at the station.

THE ALLEGED SECTION 11(d) BREACH

[24] Section 11(d) of the *Charter* reads as follows: "Any person charged with an offence has the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal."

[25] Defence counsel alleges that the failure to disclose the cell video resulted in a breach of Wraich's rights pursuant to section 11(d). When examined in conjunction with section 7 of the *Charter*, this hindered the ability of Wraich, defence counsel alleges, to proceed with an application that his section 8 *Charter* rights had been violated.

THE ALLEGED SECTION 11(b) BREACH

[26] I will turn now to the issue of the alleged breach of Wraich's section 11(b) *Charter* rights.

GOVERNING JURISPRUDENCE

[27] At paragraph 5 of *R.* v. *Jordan*, 2016 SCC 27, ("*Jordan*"), the Supreme Court of Canada held that trials in provincial courts such as the Ontario Court of Justice ought to be completed within 18 months.

[28] The first step under the *Jordan* analysis, as set out in paragraph 60 of that decision, is to determine the total length of time between the date when someone is charged and the actual or anticipated completion of the trial. The next step is to subtract from the total delay any time periods which are attributable to the defence.

[29] In paragraph 66 of *Jordan*, the Supreme Court outlines that time periods may be deducted from the total delay where the defence conduct has solely or directly caused the delay. This was reiterated by the Supreme Court of Canada in paragraph 28 of *R.* v. *Cody*, 2017 SCC 31 ("*Cody*").

[30] At paragraph 3 of *R. v. Mallozzi*, 2018 ONCA 312, the Ontario Court of Appeal confirmed that actions that are legitimately taken to respond to the charges will fall outside of defence delay and will not be subtracted from the total delay.

[31] If the net delay remains above the 18-month ceiling, then the delay is presumptively unreasonable. To rebut this presumption, the Crown must establish the presence of exceptional circumstances. If it cannot, the delay is unreasonable and pursuant to paragraph 47 of *Jordan*, a stay of the charge will follow.

[32] At paragraph 71 of *Jordan*, the Supreme Court outlines that exceptional circumstances generally fall into two categories: discrete events and particularly complex cases.

[33] Exceptional circumstances, outside the Crown's control, as *Jordan* outlines in paragraph 69, are those that "are reasonably unforeseen or reasonably unavoidable" and those where the prosecution "cannot reasonably remedy the delays emanating from those circumstances once they arise." To rely on such circumstances, the prosecution must demonstrate that it took reasonable steps to address delays caused by exceptional circumstances. As the Supreme Court clarified in paragraph 54 of *Cody*, the prosecution "need not exhaust every conceivable option for redressing the event in question to satisfy the reasonable diligence requirement."

THE CHRONOLOGY OF THIS CASE

[34] To determine whether an 11(b) *Charter* breach has occurred, it is necessary to review the timeline of how this case wound its way through the Court system.

[35] As mentioned earlier, Wraich was arrested on September 20, 2023 and charged on the same date. It is from this charging date that the 18-month clock begins to run. The trial was completed on August 18, 2025. The length of time to trial is therefore 22 months and 28 days – or 684 days – which is beyond the presumptive limit set out in *Jordan*.

[36] The first appearance in court was November 9, 2023, at which point the matter was adjourned for receipt and review of disclosure. The transcript also reveals that the Crown requested that a crown pre-trial be held before this next date, and the presiding justice of the peace agreed.

[37] The next appearance in court was December 14, 2023.

[38] The next appearance in court was January 18, 2024.

[39] The next appearance in court was February 8, 2024, at which point the matter was again adjourned to conduct a crown pre-trial.

[40] This did not occur before the next court appearance.

[41] The next appearance in court was February 29, 2024, by which point the crown pre-trial had not yet occurred. It was, however, scheduled to occur on March 11, 2024. The matter was again adjourned to conduct the crown pre-trial.

[42] The next appearance in court was March 14, 2024, subsequent to the crown pre-trial, at which point the matter was adjourned to conduct a judicial pre-trial.

[43] The next appearance in court was April 4, 2024, by which point the judicial pre-trial had not yet occurred.

[44] The next appearance in court was May 16, 2024, at which point the trial dates of December 2, 2024 and January 6, 2025 were set. A date for an intervening confirmation hearing of September 27, 2024 was also scheduled.

[45] At the confirmation hearing on September 27, 2024, the two trial dates were confirmed, and two Punjabi interpreters were ordered to attend on both trial dates to assist Wraich.

[46] The next appearances in court were November 19, 2024 and November 22, 2024 to address a motion by defence counsel to get off the record. However, any issues with respect to the solicitor-client relationship were resolved, and on November 22, 2024, the same trial dates were once again confirmed. Thus, no delay resulted from these November court appearances.

[47] The trial did proceed on both December 2, 2024 and January 6, 2025, with the hearing of evidence both with respect to the trial itself as well as the original *Charter* application. However, the trial was not completed on the second day, and the matter was put over to January 27, 2025 to find further continuation dates.

[48] The next appearance in court was January 27, 2025, at which point a trial continuation date of October 8, 2025 was set.

[49] Further efforts to obtain an earlier continuation date were undertaken by both the defence and Crown, and a new date of July 14, 2025 was obtained.

[50] The matter did not proceed on July 14, 2025 and was put over to August 18, 2025 for both the trial continuation and for defence counsel to bring their section 11(b) *Charter* application.

[51] On August 18, 2025, the matter did complete. The Crown closed its case, Wraich testified, though only with respect to the alleged breaches of his *Charter* rights, and counsel made their closing submissions on both the facts of the case as well as all the alleged *Charter* violations.

[52] My review of the transcripts as well as the submissions of both Crown and defence counsel lead me to conclude that there are three specific aspects of this case that led to the delays in completing it. I will review each of them briefly at this time.

CHRONOLOGY WITH RESPECT TO SCHEDULING THE PRE-TRIALS

[53] The comments of the defence agent during the proceedings of February 8, 2024 are telling. They are noted in the transcript as follows:

> I was here for this matter on the last date as well, Your Worship. I note Your Worship's instruction on conducting a Crown pre-trial. Counsel advised that they did send a request to the virtual Crown and are awaiting response, and they're requesting February 29th to have that Crown pre-trial. I note Your Worship had indicated on the last occasion not to come back with the same instructions. I did reiterate to counsel the importance of setting a Crown pre-trial. He indicated he's reached out but is awaiting a response.

The justice of the peace questioned the agent on when the request for the Crown pre-trial was sent by defence counsel to the Crown, but the agent was unable to provide an answer. His Worship then noted, with respect to his endorsement on the information, that "this will be the third time I have written 'resolution discussions' as the reason for the adjournment."

[54] To review, the justice of the peace noted, on November 9, 2023, that he expected the crown pre-trial to have occurred by December 14, 2023. It did not occur until March 11, 2024.

[55] On March 14, 2024, the defence agent asked for the matter to be adjourned to April 4, 2024. Referring to the next step of a judicial pre-trial, the defence agent stated: "That should be sufficient time to schedule one and hopefully conduct it in the interim, and then get instructions from there."

[56] It was not sufficient time. On April 4, 2024, an articling student for defence counsel advised the court:

> Your Worship, Counsel and I have been in the process of setting a JPT with the Crown, and so we have yet to fill out the trial confirmation form. And so, we are requesting a six-week adjournment in order to send in the form and confirm a date with the trial coordinator as for the JPT, because I see the trial coordinator in their email only has dates past April 25th. So, we're requesting that adjournment, so we have the JPT finished, and we'll come back with the update to the client as to what the JPT entailed, and we'll have a much better update for the Court at that date. So, six weeks from now is what we're requesting, Your Worship.

[57] As noted earlier, on May 16, 2024, the trial dates were set. The judicial pre-trial had occurred on May 7, 2024.

THE ATTRIBUTABLE DELAY WITH RESPECT TO THE CROWN PRE-TRIAL

[58] It should not have taken from November 9, 2023 until March 11, 2024 for the crown pre-trial to occur. While I appreciate that defence counsel practices in Toronto, rather than here in London, and that some procedures may be different, counsel choosing to represent clients in other than their usual jurisdictions need to become aware of what they need to do and how they need to do it.

[59] I am aware that I have not further considered whether the responsibility for this entire period of December 14, 2023 – the date by which the justice of the peace indicated that he felt the crown pre-trial could have occurred, until March 11, 2024 should be attributed to the defence. I note that, in the Crown's responding materials to the section 11(b) *Charter* application, they are only suggesting that I allocate the time going forward from the January 18, 2024 court appearance to the defence.

[60] Therefore, I attribute the period from January 18, 2024 until March 11, 2024, the actual date of the crown pre-trial, to defence delay. This is a period of 53 days.

[61] This deduction would bring the total delay down to 631 days, still in excess of the presumptive limit.

THE ATTRIBUTABLE DELAY WITH RESPECT TO THE JUDICIAL PRE-TRIAL

[62] I also conclude that the defence bears some responsibility for the delay in scheduling and conducting the judicial pre-trial. As noted earlier, the defence agent had hoped the judicial pre-trial would be completed by April 4, 2024. It occurred on May 7, 2024. Even if I were to attribute the responsibility for this entire period of delay with respect to the judicial pre-trial to defence delay, this deduction of a further 33 days would bring the net delay down to 598 days, still in excess of the presumptive limit.

CHRONOLOGY WITH RESPECT TO SETTING TRIAL DATES AND CONTINUATION DATES

[63] The Crown also suggests in their responding factum to Wraich's section 11(b) *Charter* application that, for three further periods of time in the chronology of this trial, the delay should be fully attributed to the defence. These time periods, namely 55 days between October 8, 2024 and December 2, 2024; a further 33 days between December 4, 2024 and January 6, 2025; and a further 97 days between April 8, 2025 and July 14, 2025, for a total of 185 days, in the Crown's opinion, should be fully attributable as defence delay.

[64] With respect, I do not believe that this is appropriate. I note the comments of the Supreme Court of Canada in *R. v. Hanan*, 2023 SCC 12 at paragraph 9 where the Court stated that if the defence is not available for a proposed trial date, not all the delay that follows is necessarily attributable to the defence.

[65] As well, I note the case of *R. v. Ameerullah*, 2019 ONSC 4537 at paragraphs 28 and 29. In this case, the Court held that when a single date or block of time is offered to the defence, and counsel is unavailable, not all the delay to the next available date is necessarily defence delay. Rather than taking a sort of categorical approach, there needs to be consideration of the particular circumstances of the case.

[66] One of those particular circumstances in this case is indeed worth noting. At the conclusion of the trial date of January 6, 2025, the Crown reserved its right to recall the investigating officer to give further evidence. On January 17, 2025, in date setting court, keeping in mind that officer's schedule, the earliest continuation date available was October 8, 2025.

[67] In their responding materials, the Crown indicates that, because of this, they reviewed the matter and decided to proceed without recalling that officer. Defence counsel cooperated in coming up with an earlier trial continuation date. A new trial continuation date of April 8, 2025 was offered by the trial coordinator, but that was not available to defence counsel, and the date of July 14, 2025 was agreed upon. I note, however, that despite this matter being in front of me on both January 27, 2025 and again of July 14, 2025, I was not formally advised by the Crown that they were closing its case until the August 18, 2025 appearance.

[68] I acknowledge the case of *R. v. Boulanger*, 2022 SCC 2 ("*Boulanger*") at paragraph 8, where the Supreme Court of Canada stated that *Jordan,* at paragraph 64, holds that where the court and the Crown are ready to proceed but the defence is not, the resulting delay is attributable to the defence. Nevertheless, *Boulanger* states that in some cases, the circumstances may justify apportioning responsibility for delay among these participants rather than attributing the entire delay to the defence.

[69] Later in this decision, when I review the issue of disclosure, I note that disclosure was still being provided by the Crown as late as December 11, 2024. As such, I do not accept that any delay during the period prior to this date should be attributable to the defence, especially since the trial had already begun by this time. As well, any delay

between the date of this late disclosure and the resumption of the trial on January 6, 2025, should not be attributable to the defence.

[70] Later in this decision, when I review the issues of interpreters, I will discuss why I do not accept that any delays subsequent to January 6, 2025 should be attributable to the defence.

[71] Therefore, I do not consider that any of these delays with respect to trial or trial continuation date setting are the particular responsibility of the defence, and I do not attribute any delay to them.

CHRONOLOGY WITH RESPECT TO DISCLOSURE

[72] In the Supreme Court of Canada's decision in *R. v. Stinchcombe*, [1991] 3 SCR 326, at paragraph 18, the Court is clear that the Crown has an obligation to "disclose all material it proposes to use at trial and especially all evidence which may assist the accused even if the Crown does not propose to adduce it." For the Crown to provide disclosure to defence counsel, the Crown must of course receive it in timely fashion from the police.

[73] There were certainly some issues regarding disclosure in this matter. Disclosure was, for the most part, released by the Crown to defence counsel between November 8 and November 20, 2023. The Crown points out that it was not until May 7, 2024 that defence counsel advised that they had an issue with accessing the in-cell video of Wraich in police custody.

[74] Nonetheless, as trial dates were put on the record on May 16, 2024, I see no delay that any delayed disclosure request on the part of defence counsel caused in this matter.

[75] I do note that at the confirmation hearing on September 27, 2024 defence counsel advised: "The issue initially was that there was some disclosure that was missing. I have since received it. We are ready to go, and will be filing our *Charter* application in due time."

[76] As it turns out, there was a portion of the cell video that had not been disclosed. Defence counsel advised the Crown of this, and on December 2, 2024, in an e-mail back to defence counsel, the Crown advised "OPP is looking into whether there are additional videos now." Further disclosure, as noted earlier in these reasons for judgment, was indeed provided by the Crown on December 11, 2024. Again, as no adjournment of the pre-scheduled trial dates occurred, I see no reason to attribute any delay to the defence over this issue.

CHRONOLOGY SPECIFICALLY WITH RESPECT TO THE INTERPRETERS

[77] Section 14 of the *Charter* reads as follows: "A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter." As the Supreme Court of Canada set out in its decision in *R. v. Tran*, [1994] 2 SCR 951, the right to interpreter assistance is not only a fundamental constitutional guarantee in its own right, but also an

important means of ensuring a full, fair public hearing as protected under sections 7 and 11(d) of the *Charter*.

[78] The issue of interpreters not being present to assist Wraich impacted the trial proceedings on two separate trial dates. On the first relevant date, January 6, 2025, only one interpreter was present to assist Wraich. In order not to exhaust the interpreter, this limited the amount of testimony that could be presented that day and was one of the key reasons that necessitated a trial continuation date being set. For this reason, as well, I do not believe that it would be appropriate to lay any responsibility for delays at the feet of defence that occurred after this date.

[79] The second interpreter-related delay occurred on that trial continuation date of July 14, 2025. Unfortunately, no Punjabi interpreters were present, either in person or virtually, to assist Wraich. The matter was adjourned to August 18, 2025.

[80] None of the interpreter-related delays can in any way be attributed to defence delay.

CONCLUSION

[81] Having now considered all circumstances of this matter that could have led to defence delay, I am left with a net delay, as noted earlier in this decision, of 598 days, still in excess of the allowable amount as set out in *Jordan*. Even if I were to attribute as defence delay the additional period with respect to scheduling the Crown pre-trial, namely the 35 days between December 14, 2023 and January 18, 2024, this would still leave the matter taking 563 days to complete.

[82] In the final analysis, after subtracting defence delays, the net delay of 598 days remains at nearly 20 months. As a result, I am persuaded on a balance of probabilities that Wraich's section 11(b) *Charter* rights have been breached. Accordingly, Wraich's application is granted and the charge on this information against him is stayed, pursuant to section 24(1) of the *Charter* and the Supreme Court of Canada's many rulings which have held that a stay is the only appropriate remedy in such cases.

[83] As a result of this, there is no need to address further the other alleged breaches of Wraich's section 7, 8, 9, 10(a), 10(b) and 11(d) *Charter* rights.

Released: October 9, 2025

Signed: Justice T. Stinson