



Our News



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The Jordan Motion

In R. u. Jordan the Supreme Court of Canada enhanced the right of the accused to have a trial in a reasonable delay – 18 months for summary conviction cases and 30 months in indictable cases. The right to a trial in a reasonable delay is a top of mind consideration for our office. We have successfully pleaded delay motions in the following cases:

S.R.M. VIOLATION BY A RESTAURANT OWNER

Our client was charged by the Agence du revenu du Québec (ARQ) with failing to issue a receipt to a restaurant client and to register the sale in its Sales Recording Module (SRM). The client was summoned to trial more than 18 months after being charged. The trial judge accepted our legal argument that if the prosecution could not prove with actual evidence why this case took so long to be brought to trial that our Jordan motion must be granted. The ARQ filed for an appeal of this judgment to the Superior Court.

We responded with a preliminary motion to summarily dismiss the appeal arguing that this appeal was manifestly unfounded. The Superior Court granted our motion to dismiss the appeal. The ARQ filed a motion for permission to appeal this Superior Court judgment to the Québec Court of Appeal. Our office contested the ARQ motion for permission to appeal and the Québec Court of Appeal dismissed the ARQ appeal request. The judgment of the Québec Court of Appeal is published on the Canlii website and the reference is: 2017 QCCA 2024.

GRAND EXCESSIVE SPEEDING CASE

Our delay motion was granted in a grand excessive speeding case in Montréal. The interesting point of this case was that the 18 month delay between the date of our client being charged and the trial date occurred 20% before the July 8, 2016 Jordan ruling date – 80 % after. The Court held that the prosecution could not rely on the notion of transitional exceptional circumstances to defeat the motion. Since the prosecution was not able to prove the reason for the delay our motion was granted.

Our client avoided a significant fine plus costs and more importantly avoided 14 demerit points. Grand excessive speed demerit points often cause the suspension of your driver permit as suspension occurs once you accumulate 15 demerit points. Grand excessive speeding demerit points are specifically noted in your SAAQ driver record and kept there for 10 years. This notation in your driver record results in higher annual fees for your driver permit and higher auto insurance premiums.

REFUSAL TO SUBMIT TO VEHICULAR DRUG IMPAIRMENT EVALUATION, OBSTRUCTION, EVADING POLICE CUSTODY

Our client was charged with the criminal code offences of refusing to submit to a police officer's order to submit to a vehicular drug impairment evaluation, obstructing a police officer in the exercise of his duties and evading police custody.

The interesting point of this case is that the trial judge ruled that a three month delay due to the defense lawyer not being able to take the first trial date offered would not be held against the accused. The accused has the right to choose his or her lawyer and this lawyer is not obliged to accept the first trial date offered. In addition, in this case most of the delay was attributable to the prosecution not promptly responding to pre-trial disclosure of evidence requests made by the defense.