

# 18-Month OHS Trial Delay Limit Doesn't Apply to Laying of Charges



In a 2016 case called *R v. Jordan*, the Canadian Supreme Court ruled that an OHS trial delay of 18 months or more is presumed to violate a defendant's right to a speedy trial unless the prosecutor can rebut the presumption. A construction subcontractor charged 2 years after an incident claimed that *Jordan* should apply not just to trial delays but also delays in laying charges. The court disagreed. While post-charge delays are subject to the *Jordan* rules, pre-charge delays are still assessed under the historical case-by-case formula, it reasoned [*R. v Flynn Canada Limited*, 2018 CanLII 104609 (NL PC), Nov. 5, 2018].