In the Court of Appeal of Alberta

Citation: R v Chan, 2019 ABCA 82

Date: 20190305
Docket: 1801-0122-A
Registry: Calgary

Between:

Her Majesty the Queen

Appellant

- and -

Nicholas Cypui Chan

Respondent

The Court:

The Honourable Madam Justice Patricia Rowbotham
The Honourable Mr. Justice Brian O'Ferrall
The Honourable Madam Justice Michelle Crighton

Memorandum of Judgment

Appeal from the Decision by
The Honourable Mr. Justice P. Jeffrey
Dated the 17th day of April, 2018
Filed on the 17th day of April, 2018
(2018 ABQB 302, Docket: 140017708Q1)

Memorandum of Judgment

The Court:

Introduction

[1] The appellant appeals the trial judge's decision to grant a stay of proceedings against the respondent.

[2] In the matter under appeal, the respondent was charged with murder, conspiracy to commit murder and directing others to commit murder for the benefit of a criminal organization. The charges arose from a police operation investigating multiple gang-related homicides in the Calgary area. Multiple prosecutions ensued that involved several serious charges, multiple overlapping accused, several overlapping counsel and witnesses including ***Vetrovec*** witnesses (***R v Vetrovec***, [1982] 1 SCR 811), complex, coordinated case management proceedings, and multiple pretrial applications all of which impacted scheduling. Consequently, while the respondent was charged in July 2013 with offences that are alleged to have occurred in August 2008, by the time his counsel applied for a stay of proceedings in February 2018, 58 months had passed, the respondent's trial had not yet started and the respondent had been in custody since his arrest.

[3] The appellant fairly concedes the delay exceeds the presumptive ceiling mandated in ***R v Jordan,*** 2016 SCC 27, [2016] 1 SCR 631, notwithstanding the trial judge erred in characterizing certain periods of delay. The appellant nevertheless argues the delay was justified under the exceptions provided for in the ***Jordan*** and ***Morin*** decisions (***R v Morin***, [1992] 1 SCR 771).

[4] In our view, this appeal turns on the applicability of those exceptions and, while the errors the appellant advances relative to specific periods of delay do not, on their own, warrant appellate intervention, it is still necessary to address their impact in order to assess the exceptions in their proper context.

[5] In our view, the trial judge erred by declining to attribute to the defence a 5 month delay between September 2015 when the trial was adjourned and January 2016 when it was finally rescheduled—a delay that was requested by respondent's counsel. Had the trial judge properly accounted for defence delay, the overall delay after accounting for the time consumed by discrete events would have been 35 months.

[6] Taking those errors into account, we agree with the appellant that the delay was justified under the complex case exception or under the transitional exception and we would allow the appeal on either ground.

Grounds of Appeal and the Parties' Positions Thereon

[7] The Crown appeals on two grounds:

(a) The trial judge's conduct created a reasonable apprehension of bias leading to an unfair trial; and
(b) The trial judge erred in law by finding a violation of s 11(b) of the ***Charter***.

[8] With respect to ground 1, the appellant argues there is cogent evidence upon which a reasonable, informed observer would conclude that the trial judge reverse-engineered his reasons for granting the stay to prevent the Crown from appealing an earlier evidentiary ruling that significantly impacted the appellant's ability to proceed with its case. The appellant argues the trial judge's analysis in granting the stay is a further example of his judicial bias.

[9] With respect to ground 2, the appellant argues the trial judge erred in his identification of discrete events and in his assessment of overall complexity.

[10] The respondent argues the trial judge did not err in his finding the trial took too long. Rather, he correctly concluded the Crown failed to refute the prejudicial impact of the respondent's loss of liberty and failed to meet its burden under the ***Morin*** analysis to prove the delay was justified.

[11] The respondent argues further that the presumption of judicial integrity has not been rebutted. Rather, the trial judge's reasons for his earlier ruling are amply supported in the record and, further, his reasons for staying the charges for delay are responsive to the issues he was required to address in the context of the respondent's case.

Standard of Review

(i) Reasonable Apprehension of Bias

[12] As stated by this Court in ***R v Lupyrypa***, 2011 ABCA 324 at para 6, reasonable apprehension of bias involves scrutiny of the record to determine if a fully informed and reasonable observer could reasonably apprehend, having thought the matter through, that the judge was not fair and impartial. Inasmuch as there is a presumption of judicial integrity, substantial grounds and cogent evidence are required to lead to the conclusion that such an apprehension is reasonable: ***R v S (RD)***, [1997] 3 SCR 484 at para 142; ***Wewaykum Indian Band v Canada***, 2003 SCC 45, [2003] 2 SCR 259 at paras 57-60, 76-78.

(ii) Section 11(b) of the Charter

[13] This Court in ***R v Regan***, 2018 ABCA 55 at paras 32 -34, 359 CCC (3d) 53, recently adopted the following standard of review for Crown appeals from s 11(b) *Charter* applications:

> 32 The "characterization of periods of delay, and the ultimate decision concerning the reasonableness of a period of delay, are both reviewed on a standard of correctness," while "underlying fact findings are reviewable on the standard of palpable and overriding error": ***R v JEK***, 2016 ABCA 171 at para 10, 38 Alta LR (6th) 306; see also ***R v CD***, 2014 ABCA 333 at paras 26-28, 584 AR 222; ***R v Warring***, 2017 ABCA 128 at para 5, 52 Alta LR (6th) 80.
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> 33 Trial judges are in the best position to assess the legitimacy of any procedural steps and to determine whether the parties' litigation conduct was reasonable. They also have expertise in assessing the complexity of cases. Appellate courts must show these findings deference: ***Jordan*** at paras 65, 78-79; ***R v Cody***, 2017 SCC 31 at para 31, 349 CCC (3d) 488.
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> 34 For cases that were in the system prior to the release of ***Jordan***, trial judges are also well positioned to decide whether the transitional circumstance exception applies. If the trial judge has erred in law in the course of his or her analysis, however, an appellate court does not owe the same deference to the trial judge's conclusion about whether the transitional exception applies: ***R v Picard***, 2017 ONCA 692 at para 137, 137 OR (3d) 401.

Analysis

Reasonable Apprehension of Bias

[14] The appellant's arguments relative to this ground are focused on the merits of an earlier decision of the trial judge involving the admissibility of certain evidence that is not the subject matter of this appeal. For reasons that are not entirely clear, the appellant did not appeal that decision and, accordingly, it would not be appropriate for a panel of this Court to opine on the correctness of that decision.

[15] We agree with the respondent that the trial judge was transparent in his thinking. While the Crown indicated its intention as a result of the evidentiary ruling to seek a directed verdict when the jury returned the following day, the Crown also reminded the trial judge that his s 11(b) ruling was outstanding. The trial judge then gave his decision orally on that outstanding motion at the commencement of proceedings the following day. In doing so, the trial judge told counsel his reasons were largely complete and that he would provide them in writing later that day. That he issued lengthy and comprehensive written reasons the same day supports the veracity of his statement.

[16] The appellant correctly observes the trial judge, in the last few paragraphs of his reasons, references his understanding of the impact his decision might have going forward. We reject, however, the appellant's argument that this demonstrates the trial judge reverse engineered his reasons for the purpose of precluding the appellant from appealing the earlier, unfavourable ruling.

In our view, the trial judge's comments are equally consistent with the trial judge's effort to explain why he elected to decide the respondent's s 11(b) application in advance of calling the jury rather than proceed as the appellant intended.

[17] We discern nothing in the timing or in the content of either decision that would rebut the strong presumption of judicial integrity and we dismiss this ground of appeal.

S 11(b) of the *Charter*

[18] When applying the ***Jordan*** framework, it is necessary to identify any delay that was caused solely by defence or waived by defence. That delay is then subtracted from the total delay in arriving at the net delay. Net delay is then presumed to breach the appellant's s 11(b) ***Charter*** rights if that net delay exceeds the 30-month presumptive ceiling measured from the date the appellant was charged to the anticipated end date of the trial. If net delay exceeds 30 months, the Crown must then prove the delay was nevertheless justified by exceptional circumstances: ***Jordan*** at para 47.

[19] ***Jordan*** recognized three types of exceptional circumstances: (i) discrete events; (ii) complexity; and (iii) transitional exceptional circumstances for those cases already in the system when ***Jordan*** was decided and which account for the party's reliance on the pre-***Jordan*** experience.

[20] In this case, while there is disagreement regarding the trial judge's characterization of certain periods of delay and the identification of discrete events that consumed some of the time being considered, the parties do not dispute the chronology of events. In his reasons, the trial judge very carefully catalogued all of the events that occurred both in this case and in other related prosecutions that he considered relevant in his overall analysis.

[21] As we have earlier indicated, even though the errors the trial judge made relative to defence delay and discrete events do not reduce overall delay below the presumptively unreasonable threshold, it is nevertheless necessary to consider his treatment of those factors so the exceptions can be considered from an accurate starting point. The chronology of events is attached as an appendix to these reasons for ease of reference.

[22] We reject the appellant's argument the trial judge erred by failing to treat the respondent's weapons re-trial as a discrete event. The weapons re-trial occurred during a period of delay the defence had already unequivocally waived. To account for the respondent's unavailability in the same timeframe by reason of a re-trial would amount to an impermissible double counting. However, we agree the trial judge erred by failing to fully account for the delay he attributed to the defence.

[23] More specifically, the trial judge declined to attribute to the defence the 5 months between August 18, 2015, when it was obvious the trial would not proceed as scheduled, and January 15,

2016, when respondent's counsel agreed to reschedule those dates. The trial judge reasoned as follows:

> [56] It could be argued that the Defence also solely caused a further 4 months' delay, between the First Scheduled Trial (September 14 to October 23, 2015) and January 15, 2016. When the First Scheduled Trial was adjourned, Mr. Cairns asked that the re-scheduling not happen immediately, to see how the applications transpired, intimating they may affect the amount of time needed in the Anaya trial. The rescheduling was delayed to January 15, 2016, approximately 4 months later. Mr. Cairns for Mr. Chan and the Crown were not idle over that time; they were preparing for and conducting the Bolsa pre-trial applications (heard November and December 2015) and trial (February and into March, 2016). For counsel in demand identifying future availability is rarely as simple as consulting a calendar during a 15-minute court appearance. For busy counsel, committing to such large blocks of trial, and the associated time for pre-trial preparation, invariably means rearranging other matters already scheduled. Third parties need to be contacted and, sometimes, third parties' approval first requested. The point is that it is not solely up to them; third parties are involved. Also, I strongly suspect, and so find, that Mr. Cairns was aware that his client's co-accused, Mr. Darby, was discussing with the Crown acceptable terms of a plea resolution. That in fact occurred December 2015. The prospect of that occurring soon was a likely further reason to delay the re-scheduling (and it would not have been appropriate for Mr. Cairns to state that on the record, about a colleague's client). But it would mean one less lawyer's schedule to accommodate in the rescheduling if Mr. Darby was no longer part of the case and so represented a further reason to delay the rescheduling of trial. In those two senses, then, I find this 4-month delay in the rescheduling process was not caused *solely* by Mr. Chan. This finding is of little consequence however, since even if I have erred in so finding, then the additional 4 months of defence delay would not change my conclusion at paragraph 76 below. [emphasis in original]

[24] Regardless of respondent's counsel's motivation for doing so, he requested that rescheduling be delayed. In a dynamic system where other matters take up trial availability as time passes, the difficulties the trial judge attributed to the ability of busy counsel to "commit such large blocks of trial time and the associated time for pre-trial preparation" are the very reason the resulting delay should have been attributed as delay caused solely by the defence. Absent his counsel's request, the trial dates would have been rescheduled in August 2018 and likely for earlier dates than those eventually set. Had too much time been scheduled, which appears on this record to have been the concern given various things that were going on behind the scenes, that time could have been released back into the pool, but this specific consumption of time was caused by the respondent's counsel. Accounting for this delay reduces the net delay by 5 months to 39 ½ months and, while it does not affect the trial judge's conclusion the net delay exceeded the presumptive

ceiling, it does reduce the starting point from which to consider the applicability of the exceptions that we conclude determine this appeal.

Complex Case Exception and the Transitional Exception

[25] Under ***Jordan,*** the trial judge must be correct in his ultimate conclusion that the delay was unreasonable. If the case was in the system prior to the release of ***Jordan,*** as this case was, the trial judge is well positioned to decide if the transitional exception applies. If the trial judge errs in the course of his or her analysis, appellate courts do not owe the same deference to the trial judge's conclusions about the applicability of the transitional exception.

[26] The trial judge recognized the prosecution was at least moderately complex and that a large number of pretrial applications contributed to that complexity. For the most part, the applications were the respondent's and the appellant had no control over the decision to advance them or to the amount of time they would consume. The trial judge recognized that extensive disclosure, the complex nature of the charges and a tandem case management process involving a parallel trial all added to the complexity. Further, he appreciated that cases such as this one typically caused greater delay because they involve a need for longer trial time. All of these factors are among the hallmarks of complexity discussed in ***Jordan***.

[27] The trial judge recognized the joint case management was "just the sort of initiative the Supreme Court of Canada is trying to encourage in ***Jordan*** and ***R v Cody,*** 2017 SCC 31, [2017] 1 SCR 659 and he acknowledged the process promoted the sensible and efficient administration of justice. Further, he acknowledged that while the process involved accommodating more schedules and that necessarily affected timing, it also avoided the risk of the court providing differential treatment in two cases on the same matter and it avoided the respondent and others from having to argue the same application more than once. He commended the appellant's joint case management initiative taken before ***Jordan*** and ***Cody*** were decided as having been in the spirit of both decisions, but then criticized the appellant for the delays that initiative caused.

[28] Notwithstanding the many hallmarks of complexity, the trial judge appears not to have accounted for the further delay this initiative avoided. In that context, it is easier to appreciate why he concluded that neither exception justified the 35 months it took to conclude these proceedings after accounting for defence delay and discrete events.

[29] On our reading of this record, the trial judge wrongly discounted complexity because the proceedings had become more streamlined over time and wrongly equated this case to the "typical murder trial" the Supreme Court of Canada said would not usually be complex enough to comprise an exceptional circumstance. The charges here did not involve a single accused and a single victim as would the "typical murder trial". Rather it involved two homicides and a conspiracy charge wrapped up in considerations involving a criminal organization. The trial judge wrongly minimized the seriousness of the offences and complexity because the respondent became the only accused left to face charges and because the issues had been streamlined over time. It is

noteworthy that the trial judge accounted for the fact that the difficulties of the concurrent Bolsa trial and the multiple accuseds that exacerbated the inherently complex charges in this case were no longer impacting this case when the respondent applied for *Charter* relief but the Bolsa matter was only resolved 4 months before ***Jordan*** was released and the weapons retrial did not occur until more than one year after.

[30] For all of those reasons, the complex case exception should have applied in this case.

[31] However, even if we had concluded otherwise, the transitional exception most assuredly should have applied. Virtually all of the controversial delay occurred before ***Jordan*** was issued. Even the trial judge recognized that 36 months of the 58 months of delay had occurred before ***Jordan*** was issued in 2016. Moreover, virtually all of the delay after ***Jordan*** was either expressly waived by the respondent or the time was consumed by the respondent's pursuit of his counsel of choice.

[32] As already noted, the charges are among the most serious. As seriousness of the offence increases, so does the societal demand that the accused be brought to trial: ***Morin*** at para 30. We agree with the respondent that the trial judge was thorough and largely correct in his characterization of the events under the ***Morin*** framework. In our view, the trial judge's errors relative to complexity and seriousness in the context of the magnitude of pre-***Jordan*** delay caused him to err in refusing to apply the transitional exception to the delay in this case.

[33] We have already discussed the errors the trial judge made in assessing complexity relative to the complex case exception. Those same concerns arise here. The appellant should be commended for acting in the spirit of both ***Cody*** and ***Jordan*** in its decision to pursue a tandem case management process notwithstanding the respondent's objection. While the process added marginally to the time it took to complete the third party records applications, the subsequent delay that would have arisen from inconsistent findings and repeated applications, while unquantifiable, was undeniable including by the trial judge.

[34] First degree murder is an offence that will rarely be stayed under the ***Morin*** framework: ***Regan*** at para 113. This factor should have weighed more heavily in the trial judge's analysis and would have done so had the trial judge not overemphasized the results of the parties' efforts to streamline the proceedings by the time the respondent applied for *Charter* relief and to over emphasize the appellant's role in the delay.

[35] The trial judge overstated the appellant's delay by, on the one hand, commending it for acting in the spirit of a cultural shift that had not yet been heralded and, on the other hand, by faulting the appellant for delays that resulted from those efforts. The trial judge acknowledged the purpose behind the appellant's decision to pursue case management and later tandem case management were legitimate and avoided issues arising later that would undoubtedly have impacted schedule, but failed to account for that unquantifiable but undeniable consequence. This resulted in an overstatement of the combined Crown and institutional delay under ***Morin.***

[36] The trial judge correctly observed that under ***Morin,*** no defence initiative was required: ***R v Mamouni,*** 2017 ABCA 347 at para 57, and delay caused by co-accused was neutral: ***R v Sapara,*** 2001 ABCA 59 at para 57, leave to appeal to refused [2001] SCCA No 237 (#28583); ***R v Gopie,*** 2017 ONCA 728 at para 138. As can be seen from the chronology of events, this case was heavily impacted by related prosecutions and the appellant's efforts to ensure the decisions made in one prosecution would not needlessly interfere with the timeliness of another. While it is true that respondent's counsel raised the issue of delay from time to time before ***Jordan*** was released, the respondent did not apply for severance of his own matter at any time and he did not apply for relief under ***Jordan*** for more than 18 months after it was released. By the time the respondent applied for relief in 2018, he deposed that nobody had even discussed the issue of ***Jordan*** with him including his counsel of choice who represented him until October 2016, 3 months after ***Jordan*** was released. It is a fair inference that his counsel did not consider the time taken to have been excessive before he withdrew as counsel.

[37] On this record, the trial judge's errors relative to defence delay and his failure to properly account for the appellant's efforts to streamline this and related prosecutions resulted in the understatement of defence and neutral delay and the overstatement of Crown delay.

[38] The trial judge is correct that the appellant did not offer any evidence to refute the respondent's evidence about the prejudice he suffered while incarcerated, but we agree with the appellant that the trial judge made errors in his assessment of prejudice that caused him to over emphasize it in the overall analysis.

[39] The trial judge wrongly took pre-charge delay into account thereby overstating the impact on the respondent's ability to make full answer and defence. Further, he failed to account for the fact that until December 2016, the respondent was in custody on other matters such that the conditions and transfers he relies on to prove prejudice would have occurred even if the respondent had not been facing the charges that are the subject of this appeal. There is no doubt the respondent suffered prejudice. However, we agree with the appellant that the trial judge's errors caused him to overemphasize prejudice in balancing the other factors in the overall analysis and those errors in turn cumulatively affected the trial judge's last look at the overall delay.

[40] In our view, had the trial judge not made the errors discussed above, he would have reached a different conclusion given that almost all of the delay in issue occurred before the Supreme Court of Canada heralded a shift in the culture of complacency. The appellant in this case was anything but complacent. It took steps that were creative in the interests of the administration of justice when faced with complex and related prosecutions. The trial judge in his reasons acknowledged as much, but his reasons suggest he ignored those efforts in deciding whether the transitional exception applied after balancing all of the relevant factors.

[41] We discussed the issue of remedy with the parties during the course of oral argument and specifically, if we were to allow this ground of appeal, whether we should order a new trial or remit it to the trial judge to continue the trial he stayed. The appellant submits we should order a new trial

and confirms that is the relief it is seeking. The respondent submits it would be expedient to remit it to the trial judge in the circumstances.

[42] We agree with the appellant. While this Court has the power to order the return of this case to the trial judge for continuation, it should only be done where the interests of justice require it, where there is no prejudice to the parties, and where no unfairness would result: ***R v Bellusci,*** 2012 SCC 44 at para 42, [2012] 2 SCR 509. This is not a case like ***R v Yelle,*** 2006 ABCA 276, 397 AR 287 in which the trial judge had already heard 3 months of evidence in the trial. In this case, the trial judge had only engaged in resolving pre-trial matters. Evidence in the trial proper had not yet been called. There is no suggestion by either party there would be any prejudice or unfairness or that continuing the trial is for any reason required in the interests of justice.

[43] Accordingly, we allow this ground of appeal and order a new trial in the Court of Queen's Bench.

[44] Because the respondent was in custody immediately prior to the trial judge's decision to stay proceedings against him, we direct that he turn himself into the Calgary Remand Centre within 24 hours of the date of these reasons or a warrant for his arrest will be issued.

Appeal heard on January 15, 2019

Memorandum filed at Calgary, Alberta
this 5th day of March, 2019

Rowbotham J.A.

authorized to sign for O'Ferrall J.A.

Crighton J.A.

Appearances:

I. Kuklicz
for the Appellant

A.L. Serink
for the Respondent

Appendix

Timeline of Events

Date	Event
August 9, 2008	Kevin Anaya shot and killed
May 5, 2010	Det. Shute of Calgary Police Service spoke with "AB" (an inmate at Bowden) serving time for firearm offences who said he could provide info
December 18, 2011	AB signed immunity agreement with Alberta AG
March 13, 2012	AB interview implicated Chan as being at a meeting in Chinatown the day Anaya was shot - AB admitted shooting and killing Kevin Anaya at the instruction of Chan
May 31, 2013	"CD" (serving sentence for murder) enters agreement with Calgary Police Service
June 18, 2013	CD gives recorded statement under oath implicating Chan - CD said that Chan directed the murder of Bontogon and was with AB during the shooting of Anaya
July 18, 2013	Chan arrested in relation to the killing of Kevin Anaya - Chan charged with knowingly, directly or indirectly, instructing AB and CD to commit murder for the benefit of a criminal organization
July 18, 2013	Chan arrested in relation to the murder of Kevin Neal Bontogon - Chan charged jointly with Timothy Chan, Dustin Darby, and Nathan Zuccherato with conspiring to murder Bontogon or cause Bontogon to be murdered and thereby commit first degree murder
July 18, 2013	Chan arrested in relation to the Bolsa Murders - Chan charged along with Dustin Darby and Real Honorio
July 23, 2013	Chan's agent adjourned first appearance in Provincial Court to **August 20, 2013** in order to first receive disclosure from the Crown - File adjourned repeatedly over the fall of 2013 while defence counsel waited for disclosure and direct indictments
September 4, 2013	Initial disclosure package made to Chan's counsel
December 11, 2013	Crown signs direct indictment with respect to Anaya's murder, charging Chan plus three co-accused (Timothy Chan, Dustin Darby, and Nathan Zuccherato)

Date	Event
	Direct indictment specifies that Chan instructed AB and/or CD to kill Anaya Direct indictment also specifies that the murder relates to Bontogon
January 2014	Letters between Wittmann CJ and parties discussing Crown's request for a judicial case manager
January 9, 2014	Chan's counsel writes Crown and advises he wants to adjourn Chan's matter (after the first appearance) into February 2014
January 24, 2014	Chan makes first appearance on Anaya indictment Court issued warrant for Timothy Chan's arrest Matter adjourned to **February 21, 2014** to allow counsel to speak about potential trial dates
February 21, 2014	Court set Anaya homicide trial for **September 14, 2015 - October 23, 2015** - Set this late to accommodate Mr. Hepner who was representing Zuccherato in the trial of the Ses and Kong matter (Chan was not charged in this matter)
February 21, 2014	Court set Bolsa trial for **January 11, 2016 - February 26, 2016**
September 3, 2014	Chan denied interim release
November 27, 2014	Wittman CJ assigns Tilleman J as case manager for Anaya and Bolsa
January 8, 2015	Additional Crown disclosure
February 6, 2015	Additional Crown disclosure
March 5, 2015	Chan's counsel makes third party records application for records held by Correctional Services Canada, returnable on **April 8, 2015** - Both parties agree there was no delay in bringing this application
March 13, 2015	Mr. Zuccherato pleads guilty to multiple first-degree murders with respect to the Ses and Kong matter and ends his involvement with the Bolsa and Anaya trials - Darby and Honorio are still Chan's co-accused on Bolsa - Timothy Chan and Darby remain on Anaya indictment
April 8, 2015	Third party records application adjourned to **May 8, 2015** to coordinate a hearing date that would accommodate the many parties
May 8, 2015	Anaya matter adjourned to **May 19, 2015** for a case management meeting and so Chan's third party records application could be spoken to
May 19, 2015	Case management judge adjourned Bolsa and Anaya to **June 22, 2015**

Date	Event
June 22, 2015	Joint case management meeting for Anaya, Bolsa, and Nguyen (Chan not an accused) with both case management judges presiding - Chan's counsel objected to the process of two justices hearing motions on the basis of jurisdiction and prudence, since it meant having to co-ordinate scheduling with multiple lawyers - Adjourned to **September 10, 11, and 14, 2015** to hear the application for third party records covering all three prosecutions and six accused
June 22, 2015	Counsel for Chan met with counsel for Correctional Services Canada to narrow the focus of the application and minimize the number of records at issue
July 13, 2015	Tilleman J signs order authorizing the CSC to release copies of their files to counsel with CSC's proposed redactions
August 12, 2015	Chan's counsel and the Crown counsel address Anaya matter in case management - CMJ commented that it was becoming clear the trial could not go ahead with all the application's scheduled and suggested rescheduling - Chan's counsel wanted to wait to reschedule - Crown stated on the record they were still prepared to proceed in **September 2015**
August 18, 2015	Anaya trial formally adjourned and jury selected cancelled by Court Order
September 14, 2015	CMJ adjourned setting of new trial dates to **January 7, 2016**
Sept – Dec 2015	Third party records were received, reviewed, redacted, and released
Nov – Dec 2015	Pre-trial applications heard in Bolsa trial
December 2015	Charges against Darby and Honorio were resolved - Timothy Chan remains charged but at warrant - Chan is left as the only person on the indictment for the Bolsa Murders
January 7, 2016	Bolsa trial judge adjourned the rescheduling of the Anaya trial to **January 15, 2016**
January 15, 2016	Chan's counsel schedules for pre-trial motions to commence **September 5-25, 2017** with the trial from **October 2-November 10, 2017** - The Court and the Crown were available to start the trial in **January 2017**
Feb – Mar 2016	Bolsa trial

Date	Event
	- Results in acquittal of Chan on **March 15, 2016**
July 6, 2016	***SCC releases *Jordan*
Sept 8-15, 2016	Chan brings second application for bail
October 28, 2016	Mr. Cairns formally withdraws as Chan's counsel of record because Chan no longer had the funds to retain him
November 21, 2016	Second application for bail denied Chan makes application for the state to fund Mr. Cairn's return as counsel - Court adjourns the scheduling of that and Chan's progress with Legal Aid
November 2016	Police disclose additional police notes related to dealings with the CPS Intelligent Support Unit with AB that were previously undisclosed
December 2016	*Voir dire* in a criminal trial relating to weapons offences - Retrial ordered by the Court of Appeal in **November 2013**
March 24, 2017	Application for public funds to fund Mr. Cairns heard by the Anaya CMJ (*Fisher* application)
April 19, 2017	Anaya CMJ denies application for public funds - *R v Chan*, 2017 ABQB 270
June 1, 2017	Chan's new counsel – Ms. Serink – appeared on the record conditionally for him - Ms. Serink was prepared to accept his retainer provided the second scheduled trial dates could be pushed back to 2018 - Chan waived the associated delay, resulting in another adjournment Third Scheduled Trial: **March 5 – May 18, 2018**
Sept 25-27, 2017	Weapons retrial occurred
December 7, 2017	Chan acquitted of weapons charges
April 17, 2018	*Jordan* ruling delivered