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| **SUPREME COURT OF CANADA** | | | |
| **Citation:** R. *v*. Yusuf, 2021 SCC 2, [2021] 1 S.C.R. 5 |  | **Appeal Heard:** January 19, 2021  **Judgment Rendered:** January 19, 2021  **Docket:** 39110 |
| **Between:**  **Jamis Yusuf**  Appellant  and  **Her Majesty The Queen**  Respondent  **And Between:**  **Aziz Pauls**  Appellant  and  **Her Majesty The Queen**  Respondent  **And Between:**  **Jamal Yusuf**  Appellant  and  **Her Majesty The Queen**  Respondent | | | |

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| **Coram:** Wagner C.J. and Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ. | | |
| **Unanimous Judgment Read By:**  (paras. 1 to 5) | Moldaver J. |
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r. *v*. yusuf

Jamis Yusuf Appellant

v.

Her Majesty The Queen Respondent

‑ and ‑

Aziz Pauls Appellant

v.

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‑ and ‑

Jamal Yusuf Appellant

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**Indexed as: R. *v*. Yusuf**

2021 SCC 2

File No.: 39110.

2021: January 19.

Present: Wagner C.J. and Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ.

on appeal from the court of appeal for ontario

*Constitutional law — Charter of Rights — Right to be tried within reasonable time — Accused convicted of assault causing bodily harm and forcible confinement — Accused moving for stay of proceedings on basis that their right to be tried within reasonable time under s. 11(b) of Canadian Charter of Rights and Freedoms was infringed* *— Trial judge holding that delay exceeded presumptive ceiling set out in Jordan and staying proceedings — Court of Appeal concluding that net delay was below Jordan ceiling and setting aside stay of proceedings — Court of Appeal’s decision affirmed.*

**Cases Cited**

**Referred to:** *R. v. Jordan*, 2016 SCC 27, [2016] 1 S.C.R. 631; *R. v. Cody*, 2017 SCC 31, [2017] 1 S.C.R. 659.

**Statutes and Regulations Cited**

*Canadian Charter of Rights and Freedoms*, s. 11(*b*).

APPEAL from a judgment of the Ontario Court of Appeal (Simmons, Watt and Miller JJ.A.), 2020 ONCA 220 (*sub nom. R. v. Pauls*), 149 O.R. (3d) 609, 453 D.L.R. (4th) 193, 454 C.R.R. (2d) 138, [2020] O.J. No. 1186 (QL), 2020 CarswellOnt 3744 (WL Can.), setting aside a stay of proceedings ordered by the trial judge and remitting the matter for sentencing. Appeal dismissed.

*Adam Little*, for the appellant Jamis Yusuf.

*Michael W. Lacy* and *Bryan Badali*, for the appellant Aziz Pauls.

*Boris Bytensky* and *Brittany Smith*, for the appellant Jamal Yusuf.

*Philippe G. Cowle*, for the respondent.

The judgment of the Court was delivered orally by

[1] Moldaver J. — This appeal comes to us as of right. The three appellants were convicted at trial on charges of assault causing bodily harm. Two of the appellants, Messrs. Jamis Yusuf and Jamal Yusuf, were also convicted of unlawful confinement.

[2] Following the release of the trial judge’s reasons for judgment, the appellants moved for a stay of proceedings on the basis that their right to be tried within a reasonable time under s. 11(*b*) of the *Canadian Charter of Rights and Freedoms* was infringed. The trial judge agreed and stayed the proceedings against them. The Crown appealed from that order and in a unanimous decision, the Court of Appeal for Ontario, applying the appropriate standard of review, allowed the appeal and restored the convictions.

[3] We agree with the Court of Appeal in the result and would accordingly dismiss the appeal.

[4] In doing so, we have chosen to leave for another day various legal issues that arise from this Court’s decisions in *R. v. Jordan*, 2016 SCC 27, [2016] 1 S.C.R. 631, and *R. v. Cody*, 2017 SCC 31, [2017] 1 S.C.R. 659, including whether and in what circumstances multiple accused should be treated communally as opposed to individually when assessing defence delay under s. 11(*b*); whether discrete events as defined in *Jordan* attributable to a particular accused should be deducted only from the accused responsible for those events or be deducted communally from the co‑accused as well; and whether a s. 11(*b*) application can be brought post‑conviction and if so, whether a remedy other than a stay of proceedings is available.

[5] In this case, we are of the view that none of these legal issues, taken alone or together, would have affected the resolution of this appeal. Our decision to leave these legal issues to another day is influenced by several matters, including the absence of interveners who could shed light on them; the fact that this is a transitional case in which 70 percent of the trial was completed before the release of *Jordan*; and the lack of meaningful efforts on the part of the three accused to move the trial process ahead in cooperation with the Crown and the trial court. As the Court of Appeal observed, correctly in our view, this trial was by any measure uncomplicated. Based on the foregoing, no proper application of *Jordan* would have resulted in a stay here.

*Judgment accordingly.*

*Solicitors for the appellant Jamis Yusuf: Fedorsen Law, Toronto.*

*Solicitors for the appellant Aziz Pauls: Brauti Thorning, Toronto.*

*Solicitors for the appellant Jamal Yusuf: Bytensky Shikhman, Toronto.*

*Solicitor for the respondent*: *Attorney General of Ontario, Toronto.*