DELAY FACTORY [Corrected 04/17/2023]: From missing evidence to no-show cops, Cook County court machinery jams at every turn

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FULL TEXT

Through the thick glass separating spectators from the action of her courtroom, Circuit Judge Joanne Rosado's face was hazy, but the frustration in her voice was clear.

"I'm not sure how this case was allowed to be prolonged for so many years," Rosado said. "It's unconscionable that he has ... waited so many years only to be delayed once again."

Below her bench that day last June, in a shapeless brown jail uniform, stood Jorge Martinez. For nearly nine years he had been in Cook County limbo: locked up on a murder charge with no trial date in sight.

He still doesn't have one, and his case -- while extreme -- is not unique. The majority of murder cases in Cook County take four years or longer to resolve, a length that would be unthinkable in other big-city jurisdictions. Defendants, presumed innocent, are stuck in jail. Witnesses disappear. Victims' families wait and wait for whatever small measure of closure the system can offer.

There is no single culprit for the delays, which makes the problem particularly stubborn. The Cook County court system is an enormous machine with dozens of interlocking parts. The machinery can get jammed at every stage of a case, and often does; county leaders seem unwilling or unable to tackle the comprehensive fixes that would help the system run smoothly.

It can take years for prosecutors to track down and turn over relevant potential evidence, from police reports to forensics. Lawyers file requests that judges don't rule on for months or years -- sometimes because police officers simply do not show up in court, and sometimes for no clear reason at all. County doctors blow past deadlines to perform defendants' mental health examinations. And as cases drag on, it becomes more likely that an attorney or judge will leave, and the newcomer will have to start almost from scratch.

To identify the underlying reasons for the courts' slow pace, the Tribune conducted an in-depth review of more than two dozen randomly selected pending murder cases that had lasted four years or longer. Reporters pored over thousands of documents, observed dozens of hearings in those cases, and spoke with defendants, victims' family members and attorneys.

What emerged was a series of breakdowns so common they barely register with courthouse insiders. They are baked into the culture, accepted by most as part of doing business in a calcified system.

DELAYS IN DISCOVERY

People v. Antonio Gaston

Court appearance No. 43

May 2016

Circuit Judge James Rhodes is perplexed.

Before him is Antonio Gaston, whose murder case is four years old but has yet to complete "discovery" -- the very first phase of trial preparation, in which prosecutors and defense lawyers share potential evidence with each other. Rhodes is not the judge assigned to Gaston's case; he just happens to be filling in that day. But he has been a judge for 20 years and he knows: Police -- whether in Chicago or, as in Gaston's case, the south suburbs -- should have

already thoroughly investigated the case against a suspect before making an arrest, and prosecutors should have reviewed their evidence before filing a charge.
"And so one would think that discovery would be available certainly within the first year of the case," Rhodes says. "Why are we talking about discovery four years down the road?"
"Well," the assistant public defender says, "ideally things could operate one way, but there are other things that very frequently occur."
The prosecutor quickly agrees. She tells the judge that prosecutors, even after charging someone, often must wait for busy detectives to provide all the evidence.
"We don't normally get it for a while," the prosecutor says.
Current status: Gaston's case is still pending. Prosecutors indicated they completed discovery in 2018, some six years after his arrest. He has been in custody awaiting trial for more than a decade.
A prosecutor who fails to show the defense all the potential evidence in a case would be violating the Constitution. A defense attorney who fails to vet all of that evidence would be negligent.
But in Cook County, the systems that facilitate gathering and turning over those records are deeply dysfunctional, something people involved in the courts have known for years but have done little to address.
The discovery phase of murder cases often takes on the feel of a slow-motion scavenger hunt, as attorneys wrangle with other government workers or private firms to get copies of police reports, videos, cellphone data, lab tests, hospital records and other evidence.
As cameras and cellphones proliferate, the volume of electronic evidence has exploded. Chicago, in particular, has a breathtakingly expansive video surveillance network.
A single criminal case could require close study of hundreds of hours of video from body-worn cameras, cellphone cameras, police surveillance cameras, security cameras, dashcams and doorbell cameras -- that is, if the videos can even be viewed. Attorneys often complain they receive digital files that they can't open or play.
Attorneys for Christopher Lara, charged in 2020 with killing a 10-year-old girl in Logan Square, filed paperwork in September that laid out in stark terms what was allegedly still missing from discovery more than two years after his arrest. That included, among other things: All documentation from the city's Office of Emergency Management and Communications, or OEMC. Video from the crime scene. More than 20 other audio and video recordings related to the case. A printout of the data extracted from the defendant's phone, the search warrant for his Snapchat, the police paperwork related to his car.
Getting documents and video from the Chicago Police Department has proved to be a particular sticking point. Chicago police investigating a murder can generate reams of alphabet-soup paperwork: TRRs, RFIs, GPRs. All of it could be relevant to the case, particularly the handwritten General Progress Reports, which defense attorneys comb through to find leads and poke holes in the prosecution's case.
But police often deliver only partial records, forcing prosecutors and defense attorneys alike to send subpoena after subpoena in an attempt to ensure they're getting everything.
A 2020 report from the city's Office of the Inspector General concluded that the whole process by which Chicago police produce records is a shambles -- so shoddy that its work was "inadequate" to meet basic constitutional requirements. Cook County First Assistant State's Attorney Risa Lanier told the Tribune her office has been in talks with CPD over the past year about making discovery processes more efficient, and police assured them they were working on their internal systems. Police did not respond to Tribune questions on the issue.
OEMC, which handles 911 calls and emergency dispatch, can be another bottleneck. A Tribune review of OEMC data found that, while the office sometimes provided its records within a few weeks, since 2018 it's taken more than a year to do so in hundreds of cases. In a statement, the office blamed delays on a 37% increase in subpoenas over the past five years.
Records can also be significantly delayed from cellphone companies, hospitals and the state crime lab -- which often takes months to process forensic testing. Forensic evidence also might require close study by outside experts, who need time to reach their conclusions and prepare for testimony.

Current and former prosecutors told the Tribune it is difficult to be sure they are getting all the information. Sometimes relevant evidence surfaces on the eve of trial, or even after a conviction.

And sometimes it becomes clear only at the last minute that key evidence is missing. Anthony Segura was charged with murder in 2017, but it wasn't until years later that attorneys realized parts of Segura's videotaped interrogation by Melrose Park police could not be found.

When questioned in court about it last year, a former prosecutor said she couldn't remember if she ever had a copy of the statement. After all, she said, she hadn't even worked as a prosecutor since 2018. Segura spent more than five years in custody before pleading guilty in late February.

Attorneys and judges in New York City and Los Angeles told the Tribune their systems impose more oversight during the discovery process.

In New York, state law requires prosecutors to file a formal certificate when they are done with discovery, allowing judges to better keep tabs on cases. Some other states require it too, but not Illinois.

In Los Angeles, while certificates aren't required, judges more aggressively hold prosecutors accountable and the court provides free services to attorneys to help read digital files.

If discovery takes longer than six months, said veteran L.A. prosecutor Robert Song, "the prosecutor will definitely get some scrutiny, and deservedly so."

But in sitting through hundreds of Cook County court hearings, Tribune reporters found it was rare that judges pushed back on prosecutors when discovery had dragged on for a year, or two, or even longer.

Cook County court rules require that discovery be completed in the early months of a case, absent "good cause shown." The Tribune asked Chief Judge Timothy Evans' office why judges do not enforce the court's own deadlines regarding discovery. In a written response, the office did not specifically address the question.

And there is little centralized oversight of prosecutors' efforts, to ensure they're asking for the right things from the right people at the right times to push the case forward. While prosecutors have checklists of the types of things to ask for, the Cook County state's attorney's office said it doesn't track who asked for what, and when.

In fact, the Tribune could not find any entity within the court system that comprehensively monitors the time it takes agencies to respond to subpoenas, so the true scope of the problem is difficult to measure.

ARGUING ABOUT ARGUMENTS

People v. Jeremy Ellis

Court appearance No. 45

It's been two months since attorneys for Ellis filed a motion arguing that police violated his rights when they interrogated him. Associate Judge Joseph Claps, the defense wrote, should forbid Ellis' statement to police from being shown to a jury, whenever the case goes to trial.

The judge, in theory, could hear legal arguments on that request today, or even rule on it.

But Claps doesn't appear to know the case is even on the docket. From the bench, he spots a prosecutor and asks her what she's there for. She's working on the Ellis matter, she tells him.

"Are we doing something on that case?" he asks her.

"We're getting a date," she says. In other words, they're only here to schedule the next hearing.

For more than three years, the case has been tied up in pretrial motions, or requests to the judge. One was on the docket for two full years before Claps ruled, ultimately deciding that Ellis' arrest was constitutional. Now the latest motion is waiting for a hearing to be set.

But nobody mentions that when Claps formally calls the attorneys in front of him to discuss the status of the case. Instead, the defense notes that it has filed another pretrial motion based on new case law, asking Claps to reconsider his ruling on their older motion. Prosecutors say they want to file a motion to strike that new motion from the defense.

And, as the prosecutor initially signaled, the judge and attorneys don't deal with any of the substantive issues today. Instead, they get a date.

"1 0/13 ... That would be at 9:30 in person," Claps says. "OK, see you then."

Current status: It was another four months before Claps denied the August motion to reconsider, and he retired before ruling on the older motion regarding Ellis' police statement. Ellis has been in custody awaiting trial for six years.

Before a trial can start, the judge needs to set ground rules.

Is a defendant's gang membership relevant to his case or just a way to smear him in front of jurors? Did police violate his rights when interviewing him, and, if so, should his confession be thrown out? Is a jailhouse snitch reliable enough to testify? Is the forensic evidence based on real science?

To settle such questions, lawyers file motions, or formal requests to the judge, about what evidence comes in and what stays out. Murder cases are awash in such motions, which can be essential to preserving a fair trial for both sides. But in Cook County, they often aren't filed until long after an arrest, and there is rarely any urgency to get them resolved. They can linger on the docket for months or even years before hearings commence and the judge rules.

All judges in the Criminal Division are encouraged to use boilerplate "case management orders" which mandate that motions in murder cases should be filed no later than 16 months into the case.

But in reviewing a sample of cases last year, reporters found most judges did not issue those orders in their cases, attorneys didn't begin to file pretrial motions until discovery was complete, and there was no indication Evans disciplined judges who didn't use the orders.

And that's just the beginning. Once one set of attorneys files a motion, the opposing side generally gets a month or longer to read it and write a response. Then the attorneys who initially filed the motion might get another month to write a reply to the response. Sometimes there's a request for more evidence, which has to be chased down.

After the filings are complete, the next step is a hearing on the motion before the judge. But dates that work for everyone -- the judge, the attorneys, necessary witnesses -- can be hard to arrange. It is not unheard of for a judge to delay hearings and rulings on motions for years -- sometimes until right before trial.

In one 2011 murder case, defense attorneys argued that jurors should not be allowed to see certain parts of a defendant's statement to police. The motion lingered on Judge Stanley Sacks' docket for 2 1/2 years; in January 2019, on the Friday before the trial was set to begin, Sacks said he would watch the video.

After a judge rules on a motion, the losing side can then file a "motion to reconsider" urging the judge to change the ruling. Prosecutors can even appeal some rulings to the state appellate court, which can pause a case for a year or more. (The defense must wait until after a conviction to file an appeal in most matters.)

Motions can build on each other like that for months, with attorneys filing new requests based on the judge's rulings or on information revealed during hearings on old requests.

By comparison, attorneys in New York generally file motions more quickly -- often well before discovery is complete. They can do so because they know early in a case what key evidence they'll need to challenge, such as a confession, said retired New York Judge Mark Dwyer.

"There is absolutely no reason I can see why the defense should get six months, sitting on its hands, to receive discovery, and then decide what motions it wants to file. You can decide that right away," he said. "The motions are going to be the same in just about every case."

Hearings on the pretrial motions are held in the days before the trial date. By then, discovery is complete and defense attorneys can draw on that evidence to make their arguments, said Dwyer, a career prosecutor who then spent 10 years as a New York City judge.

In Los Angeles, Song said, attorneys do wait until after discovery to file motions, as in Chicago, but the process is far more streamlined. It typically takes weeks, not months or years, for a judge to hold a hearing on a motion.

He said attorneys there are motivated to get the issue resolved quickly and go to trial.

"The defense attorney says, 'I'm available on this date'; let's say it's 10 days out. And the prosecutor says, 'That's a good date.' And the court says, 'OK, I'm free, I can free up my afternoon. Let's do it,' " Song said. "Nobody wants to wait, like, a month. ... They're going to strike when the iron's hot."

NO-SHOW COPS

People v. Aaron Howell
Court appearance No. 56
June 2022
This was supposed to be the day the cops finally showed up.
The prosecutor had sent out notifications summoning them to court. The defense attorney had sent subpoenas. Their appearance was crucial; their testimony would help a judge decide whether Howell's arrest six years ago violated his constitutional rights.
But not all of them came to court, which delayed the hearing. Again.
The first attempt to get officers into court was scheduled for February 2020, a few months after Howell's defense filed a motion challenging his arrest. Some of the cops didn't show up.
After the chaos of the COVID crisis subsided, the hearing was rescheduled for June 2021. But prosecutors said they were not ready to proceed, court records show. The hearing was later scheduled for April 2022, but not all the officers came to court again.
Now it was June and one of the officers was again a no-show. He was out of town, a prosecutor explained. Judge Laura Ayala-Gonzalez gave attorneys two weeks to figure out the officers' vacation schedules before scheduling the next hearing date.
Current status: Two officers finally testified at a hearing in October, and the remaining necessary officers testified in March -- more than three years after the first attempt to get them into court. At the end of March's hearing, Ayala-Gonzalez took 10 minutes to rule that the arrest was valid. Howell has been in custody awaiting trial for more than six years.
The testimony of police officers is key at certain points in a criminal case, but the process for getting them through the doors of the courthouse is insufficient and broken. As a result, officers often simply don't show up when they're needed -- and unlike civilians, they rarely face consequences for skipping court. It is the "most vexing concern" relating to delays in the Cook County courts, a 2018 study found.
As the side that has a closer working relationship with police, prosecutors are generally responsible for asking cops to come to court. Assistant state's attorneys send "notifications" to Chicago police officers, who should be able to view the details of the requests in their internal system.
Chicago police general orders allow officers to miss court if, for example, they are on leave or have been summoned to a different courtroom that same day. They are supposed to notify their supervisors as soon as possible if they know they will be absent.
As soon as a supervisor learns of an expected absence, they are supposed to "facilitate advance notice" to the prosecutor on the case, according to police general orders.
But in practice, in most instances, if officers can't make it to court prosecutors find out the same way everyone else does: on the day of the court hearing, when they don't show up.
In a recent five-year period, Chicago police logged more than 2,200 times its officers skipped court, records obtained and analyzed by the Tribune show.
Lanier, one of the county's top prosecutors, told the Tribune her office has been in "ongoing conversations" with Chicago police about getting prosecutors access to officers' schedules, so they can schedule court hearings for days when officers will be available.
Police rarely face consequences for not showing up. For reported violations of Chicago officers, fewer than 1 in 6 received a suspension, according to a Tribune analysis of Chicago police data, and the vast majority were just for one day. The strongest discipline -- a three-day suspension -- was given in just five cases.
Prosecutors' court notifications don't have the strength of formal subpoenas, which judges can enforce with fines or jail time. Defense attorneys can summon officers through an online portal or by sending subpoenas to a police station. But subpoenas are enforceable only if it can be proved that their target was personally served with the court summons, so prosecutors' court notifications and the subpoenas sent to police stations function more like polite requests.

By contrast, if an uncooperative civilian witness doesn't come to court after being served, they can face swift and strict consequences: contempt of court, fines, even jail time.

In some corners of the courthouse, prosecutors and judges used to send subpoenas demanding witnesses' appearance on dates when their testimony was not actually needed, so attorneys could "prep" them or judges could instruct them to show up on the day of court. Judge Thaddeus Wilson in 2019 even ordered four young witnesses to be jailed before a murder trial to ensure they would show up to testify. The "trial prep" subpoena practice was halted after a witness sued over it in 2022.

In New York and Los Angeles, those familiar with the courts describe a much more accountable setup. Pretrial hearings are scheduled in Los Angeles much sooner after motions are filed; in New York, they are generally set close to trial. And overall, prosecutors keep in closer touch with officers to make sure they are actually available to show up.

But in Chicago, it often remains a guessing game.

MENTAL HEALTH EVALUATIONS

People v. Manuela Rodriguez

Court hearing No. 37

April 2018

The county doctors are already almost a year past a court-ordered deadline to answer a crucial question: Was Manuela Rodriguez legally sane when she killed her infant granddaughter?

And today, for the third time in more than four months, a county psychiatrist isn't ready to answer.

In November, he said he needed to see more records. In January he said the same. In February he said he needed more time to review the records.

Now it is April. And in a letter to the court, a doctor with the county's Forensic Clinical Services said he had referred Rodriguez to the psychology section for "formal testing." When that's done, he would reexamine her for a final time, he wrote. He gave no hint of when the process might be completed.

The court's "understanding and patience is greatly appreciated in this matter," the doctor wrote. "If the Court wishes, please grant a continuance."

Judge Dennis Porter grants a continuance.

Current status: Rodriguez has been transferred to a state-run mental health facility. She went to trial in December 2022, and by that point, the latest set of prosecutors agreed with the defense that she should be found not guilty by reason of insanity. She spent nearly eight years in jail waiting for a trial at which nobody argued to convict her.

When questions about a defendant's mental health must be answered -- Is he fit to stand trial? Could he understand the Miranda warnings detectives gave him? Was he legally sane when the crime was committed? -- the courts turn to their in-house Forensic Clinical Services. Doctors in that office administer behavioral clinical examinations, or "BCX," as they're usually known.

The court's standard case management order says all mental health exams should be requested and completed in the case's first 16 months, adding: "The trial will not be delayed due to an untimely request for an evaluation."

But in cases reviewed by the Tribune, it's rare for exams to be completed that early in the case -- in part because of how long the evaluations themselves can take.

Psychologists and psychiatrists headquartered on-site at the county's main criminal court complex are supposed to return their evaluations by the due date a judge sets, which is generally within a month or two.

In practice, they frequently don't meet that deadline.

Often, the path to a mental health evaluation becomes like the discovery process in miniature, with FCS putting off their conclusions until they get more information via attorneys: records from various recalcitrant hospitals, prisons or private doctors. Those records can be voluminous and difficult to wrangle; older records might only have been preserved on paper, if they were preserved at all.

From what few metrics are available from years past, the chief judge's office claims BCX deadlines were met 100% of the time. When the Tribune pointed out it had found several instances in which doctors missed those deadlines,

the office did not respond; nor did it provide the data that reporters requested to better measure how long evaluations took to complete.

The county doctors' reports typically don't end the debate.

Some defense attorneys think of the county doctors as rubber stamps, far too eager to declare defendants sane and capable. So after those doctors complete a BCX, defense attorneys sometimes commission another mental health evaluation from an outside expert.

If the defense doctor and the county doctor reach different conclusions, it is up to the judge to decide which is more credible, which can lead to months of complicated hearings.

That's what happened in the matter of Tyrone Clay, whose 11-year-old case has recently made headlines for allegations of police and prosecutorial misconduct.

But before all of that, years ago, there were extensive "dueling expert" hearings about whether Clay had the mental capacity to fully understand his Miranda rights. The hearings stretched over an entire year before the judge ruled in favor of the defense, saying Clay could not have knowingly waived his rights before speaking to police. Prosecutors appealed, and it took the appellate court nearly a year and a half to affirm the judge's initial ruling. The case is still pending.

Those familiar with Los Angeles and New York courts said the process is typically handled much faster.

Song said he's handled two insanity defense cases as an L.A. prosecutor. The longest took 18 months to get to trial after charges were filed, during which time both sides were able to secure expert evaluations.

In New York, Dwyer said, the process forces the issue to be raised early in the case. Even with both sides obtaining mental evaluations, he said, it typically takes less than a year for the matter to be ready to present to a jury.

ATTORNEY SHUFFLE

People v. Victor Wilson

Court appearance No. 94

August 2022

A longtime assistant public defender -- tie loosened, Big Gulp at his side -- leans so far back in his chair that his face is parallel with the ceiling. Across the courtroom, his client is firing him.

His soon-to-be-former client, Victor Wilson, is announcing on the day of his jury trial that he wants to represent himself.

The case, in which Wilson is accused of stabbing someone to death, has been pending for more than nine years.

Earlier in the hearing, Circuit Judge Kenneth Wadas had insisted: "You don't fire your lawyer on your day of trial. ... I'm not holding up the case anymore. It's a 2013 case. Your time is up."

But Wilson is adamant. He wants to represent himself. After the standard series of warnings, Wadas lets him. But, he says, the case will still go to trial today.

That's when prosecutors step in: Wilson, as his own attorney, is now entitled to see all the police reports, videos and other evidence accrued over almost a decade. And prosecutors will have to go through it all and black out witnesses' addresses and Social Security numbers. That will take days, not hours, they say.

So Wadas relents. Wilson, who does not have a college degree, let alone a law license, is on his own to tackle the evidence against him.

Outside the courtroom, dozens of prospective jurors are still waiting for a trial that won't happen today.

"Just let them go?" a deputy asks the judge.

"Just let them go," Wadas responds.

Current status: Despite Wadas saying Wilson would go to trial in September, the proceedings were ultimately pushed to late March. The morning of his scheduled trial, he pleaded guilty in exchange for the minimum sentence of 20 years in prison. He has already done about half of that time awaiting trial. He has since filed paperwork asking to withdraw his guilty plea.

The longer a case lingers on the docket, the more likely it is that the judge retires, an attorney quits or gets transferred or is elevated to the bench, or the defendant changes his mind and fires his counsel. Every time that

happens, a newcomer has to start over -- not quite from scratch, perhaps, but close enough. With every transfer, there's a chance for key evidence or institutional knowledge to get lost in the transition.
So with every transfer, the delays compound. The new attorneys have to ensure they have all the discovery, then study it closely, then determine their strategy.
Private attorneys have to formally request a judge's permission to withdraw from a case. And judges can make them stay on the case if their leaving "would delay the trial," according to state Supreme Court rules.
Judges rarely deny attorney changes, though, and -- regardless -- prosecutors and public defenders don't need to ask a judge's permission to leave when they're rotated out and replaced by their colleagues.
At the state's attorney's office, that kind of turnover is built in. All but the most complex murders are generally handled by whichever prosecutors are assigned to the courtroom where a case lands, and those prosecutors are regularly transferred in and out of courtrooms.
If a case is in its advanced stages, a prosecutor might keep handling it after a transfer, but often they are simply passed to the next person. Some courthouse veterans call that a "Lujack" -- after Johnny Lujack, the 1947 Heisman winner once renowned for his passing.
Defense attorneys often come and go too. A defendant may run out of money to pay a private attorney and so gets assigned a public defender. Or vice versa -- they ditch a public defender after scraping the money together for a private attorney. It's not uncommon for defendants to seesaw between private attorneys and public defenders -- or even to fire attorneys and choose to represent themselves.
Such turnover is generally accepted as a normal part of courthouse life. But sometimes there are whispered accusations that the motivation is shadier.
The defense might grumble that the prosecutor is stalling on a weak case, either to pressure a defendant to plead or to wait until a transfer so a new prosecutor gets stuck with the case.
Prosecutors, in turn, sometimes suspect defendants of swapping attorneys on purpose to create delay, since every day that a case stalls offers a greater chance that a witness moves away, loses their memory or even gets locked up themselves, harming their credibility.
Sometimes such whispers get spoken out loud, in court. Judge Wadas called Wilson's bid to represent himself a "sham," nothing more than a delay tactic.
Wadas could have made him stick with the public defender. Though defendants have a constitutional right to represent themselves, judges can deny permission to do so if they specifically determine that it's only being done to stall the case. Doing that, however, risks reversal by an appellate court.
Wilson's choice to represent himself was extreme, he acknowledged in an interview with the Tribune before his plea, but he insisted he did it because of a dispute with his attorney, not to delay things. It was hypocritical for the judge to accuse him of stall tactics, Wilson said, when the judge let the professional lawyers drag the case out so long.
"What happened to the other nine years I was doing?" he said. "(Wadas) just gave the state nine years (and) three months to stall."
DELAY AFTER DELAY
In some cases, delays can snowball until the defendant has spent a decade or even longer behind bars.
Frequently, the Tribune found, the delays in the oldest cases aren't particularly unique. The defendants seem to encounter the typical structural delays in greater volume, or to a greater degree.
Take, for example, Jorge Martinez. In a courthouse full of long, thorny murder cases, his is one of the longest and thorniest. The shooting he's accused of occurred so long ago that one piece of potential evidence is the use of a Blockbuster Video card.
Prosecutors say Martinez fatally shot a Ghanaian engineering student and wounded another man on a busy Uptown street on a spring night in 2008.
Martinez was not charged until 2013, more than five years after the shooting.
It took until 2017 for attorneys to file substantive motions. From that point forward, the defense vigorously challenged the evidence against him.

Among their many arguments: A jailhouse informant was unreliable, Martinez's quasi-confession to an ex-girlfriend was shaky, the fingerprint examiner who analyzed the evidence was unqualified. And perhaps most consequentially, they said jurors shouldn't hear anything about two guns Martinez turned over to police after an unrelated arrest in 2008.

The case's first judge, Associate Judge Thomas Gainer, retired at the end of 2018. His replacement, Associate Judge Thomas Hennelly, didn't hear arguments on most of the motions until March 2020. He waited six months after that to hear further arguments and make some rulings -- generally in prosecutors' favor -- while admitting that he only "kind of vaguely" remembered attorneys' arguments from the earlier hearing and didn't have the transcript. Defense attorneys filed requests asking Hennelly to reconsider, which he did not rule on until late 2021, shortly before his transfer to a suburban courthouse. His docket, including the Martinez case, was assigned to Circuit Judge Joanne Rosado. She made efforts to run the Martinez case more efficiently, for a time scheduling hearings almost weekly instead of monthly, in hopes of getting to trial by spring 2022.

The latest issue, simmering for years, has been what prosecutors could say about the two guns turned in to police. One of the guns had since been destroyed and the other returned to its legal owner. Prosecutors initially said they would argue Martinez could have used the destroyed gun to commit the crime. Then, at the last minute, they flip-flopped, telling the judge they planned to say the existing gun could have been the murder weapon.

The defense said jurors should not be able to hear about the guns, arguing the situation was a bad-faith mess and no hard forensic evidence tied either gun to the shooting. Rosado agreed, effectively overturning Hennelly's previous ruling that prosecutors could tell jurors about the guns.

So prosecutors went for the nuclear option: something called an interlocutory appeal. They want a state appellate court to reverse Rosado and allow future jurors to hear testimony about the alleged murder weapon. It took them five months to file an opening brief. The case is functionally frozen until the higher court makes its decision, which might not happen for many more months.

Rosado, while lamenting the incredible age of the case, has denied Martinez's request for release on bond while the appeal is pending. Martinez's time in custody without trial will soon pass the 10-year mark.

Meanwhile in January, the man who initially survived the Uptown gunfire died of his wounds, nearly 15 years after the shots were fired.

He would have been expected to testify at trial. Now instead, Martinez faces a new indictment with new murder charges. And, prosecutors have said, discovery on the new case remains incomplete.

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Part 3: Sunday

Judges choose their own pace

Part 4: Monday

Long-ignored solutions

Online: Read the series so far at chicagotribune.com/stalledjustice

CAPTION: Photo: Above: The Leighton Criminal Court Building, built in the 1920s, is commonly known as "26th Street" or "26th and Cal" for its location on California Avenue. ; Photo: Chicago police officers walk through the lobby in the Leighton Criminal Court Building in January. The testimony of police officers is key at certain points in a criminal case. ; Photo: Legal files are pulled on carts toward courtrooms at Leighton ; Photo: People arrive at the courthouse in January. Sometimes the security line stretches outside onto a concrete walkway. ; Photo: Thick tinted glass separates spectators from the main players in Courtroom 201, one of the newer, smaller "fishbowl" courtrooms at Leighton. ; Photo: A door leads to the judge's chambers in Courtroom 700 at Leighton. Each courtroom is controlled by an individual judge who can run their docket as they please. ; Photos by Brian Cassella | Chicago Tribune

CREDIT: By Megan Crepeau and Joe Mahr | Photos by Brian Cassella | Chicago Tribune

DETAILS

Subject:	Evidence; Cameras; Cellular telephones; Arrests; Attorneys; Trials; Court hearings &proceedings; Surveillance; Criminal investigations; Search warrants; Murders &murder attempts; Judges &magistrates
Location:	Cook County Illinois; Chicago Illinois; United States--US; Los Angeles California
Publication title:	Chicago Tribune; Chicago, Ill.
First page:	1
Publication year:	2023
Publication date:	Apr 12, 2023
Section:	News
Publisher:	Tribune Publishing Company, LLC
Place of publication:	Chicago, Ill.
Country of publication:	United States, Chicago, Ill.
Publication subject:	General Interest Periodicals--United States
ISSN:	10856706
Source type:	Newspaper
Language of publication:	English
Document type:	News
ProQuest document ID:	2799394788
Document URL:	http://turing.library.northwestern.edu/login?url=https://www.proquest.com/newspapers/delay-factory-corrected-04-17-2023/docview/2799394788/se-2?accountid=12861
Copyright:	Copyright Tribune Publishing Company, LLC Apr 12, 2023
Last updated:	2023-04-17
Database:	U.S. Newsstream

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