

JUSTICE DENIED  
Inside the Bronx's Dysfunctional Court System

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## Courts in Slow Motion, Aided by the Defense



Michael Appleton for The New York Times

At the slow-moving Bronx County Hall of Justice, Douglas G. Rankin's reputation as a world-class delayer causes little outrage.

By WILLIAM GLABERSON

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The grand exhibition hall of dawdlers that is the Bronx courthouse features procrastinating prosecutors, sluggish jailers and unhurried judges. But the true masters of delay are the defense lawyers. For them, muddled memories and lost witnesses — the passage of time itself — are the ingredients for getting clients off.

So there was barely a raised eyebrow among those waiting in a Bronx courtroom in June when one gum-chewing, pocket-hankie-wearing lawyer strolled in late for the start of a trial over a grisly stabbing in Co-op City, saying his return flight from a weekend getaway to Puerto Rico had been delayed.

Cheerful, with his rolling lawyer's bag in tow, he exclaimed without apology: "Exhausted!"

Here, if a little late, was Douglas G. Rankin for the defense, the very personification of a justice system tied up in knots.

His tardiness had already earned him a reputation around the city that had made its way to the Bronx. Over several months, he offered Bronx judges various explanations for keeping them waiting: overly demanding judges elsewhere, a lost E-ZPass, a mislaid phone number and, on more than one occasion, traffic on the Bruckner Expressway.

Not all judges have been persuaded.

In Manhattan in 2011, one took the rare step of removing Mr. Rankin as the defense lawyer in a case, saying his delays over two and a half years had "wreaked much more havoc than might be apparent."

In Brooklyn, he was so renowned for keeping the courts waiting that a special judge assigned to clear a stack of his old cases declared it was Mr. Rankin's "practice to delay trials."

But in the Bronx courthouse, his reputation as a world-class delayer provoked no particular outrage. Court officials said that one of his cases was at the very top of the list of the oldest of more than 5,000 felony cases clogging the most clogged of New York City courts.

"It used to be that being good at what you do would get you praise," Mr. Rankin said. "Instead, I'm being persecuted for it."

Delays are a New York court epidemic. But the Bronx is a special case, with more old criminal cases languishing longer than anywhere else in the city. The results have bolstered the conventional wisdom that delays lead to acquittals: fewer than half of the jury trials in the Bronx end in convictions, a startlingly low rate that suggests either more innocent people are being tried or more guilty people are being freed.

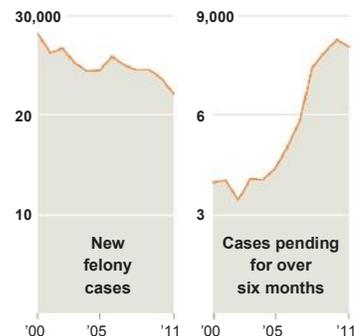
One of the little secrets of the courts is that, aside from scolding and threatening, New York's judges have limited control over the court system they appear to run. The courthouse players they control the least are the busy, privately hired defense lawyers like Mr. Rankin, who race from court to court across the city, living on their cellphones and billing for their time. The judges rarely take steps like issuing fines or holding a lawyer in contempt, which are viewed as extreme and difficult to impose. They are even more reluctant to pull a privately retained lawyer off a case.

"It's a thorny legal issue most judges don't want to get into," said Justice Barry M. Kamins, the administrative judge of the city's Criminal Court. "It can tie up the court system for an inordinate amount of time."

Mr. Rankin, 44, has enjoyed a long string of victories at courthouses around the city in cases centering on shootings, beatings and other mayhem. A master courtroom performer, he insisted in a series of interviews that he did not use delay as a tool. He said he was just swamped with clients because of his track record of success, a record that he said let him charge \$50,000 for a murder trial and \$30,000 for an assault trial.

"Word travels fast," he said, "when you are successful at getting them off."

But over the months that a reporter spent in the Bronx courts, the stabbing case stood out as an example of the way a case devolves into a morass. The trial not only started late but



While felony cases in New York City have decreased, the number of cases pending for more than six months has doubled.

also turned into a courthouse marathon, expanding from a projected two or three weeks to more than two excruciatingly drawn-out months. The lethargy seemed contagious. After a few feeble efforts to “get this case going,” even the lead prosecutor and the judge seemed to give up. Only one person seemed comfortable with the pace — Mr. Rankin, who once told a judge: “I am a trial, trial, trial, trial, trial after trial attorney.”

## A Good Fit for the Bronx

Raised in Queens, with an office in Brooklyn and clients across the city, Mr. Rankin fit right in with the Bronx, the city’s capital of court delays.

One day in the middle of the stabbing trial, he was hunched in the hallway of the Bronx courthouse, tie askew, papers on his lap, his cellphone to his ear, his current defendant’s father next to him.

“I’m doing like four things here!” he said with his usual cheer.

With a toothy smile and the scrappy style of a true New Yorker, he is also a happy warrior inside the courtroom, calling jurors “you guys” and often laughing heartily in the midst of sober prosecution presentations. He is quick-witted, exhaustively prepared and relishes the courtroom spotlight. A former prosecutor, Mr. Rankin has a withering sarcasm that can turn an opposing witness into a puddle of contradictions.

But some judges cannot abide his penchant for late arrivals, frequent postponements and courtroom filibusters. Multiple judges have heard his description of congestion on the roads from his house in Holliswood, Queens, to this courthouse or that.

In the Manhattan case where he was removed for wreaking scheduling havoc over two and a half years of missed court dates and trial postponements, Justice Daniel P. Conviser wrote a 2011 decision that is still making the courthouse rounds because of its tone of simmering fury.

“Mr. Rankin,” the justice wrote, “has wasted an extraordinary amount of the time of judges, court attorneys, assistant district attorneys, support staff from the district attorney’s office, court clerks, court officers, court reporters, police officers.” The list went on.

*In the Bronx courthouse, prosecutors say there is a corollary to the rule that delay is the defense lawyer’s friend: Delay is the prosecutor’s enemy.*

Then, for much of last year he had a series of bitter confrontations with Suzanne M. Mondo, the Brooklyn judge who was specially assigned to oversee about 30 of his cases.

Judge Mondo said in a decision that Mr. Rankin’s backlogged cases included “hundreds of adjournments that waste hundreds of hours of court resources.”

She said he was often late to court and suggested he had invented medical appointments to have one trial postponed. She accused him of threatening her in court. He called her “the queen” and said she was biased. He argued that he was entitled to be busy and that his multiple clients were not complaining. “I’m not going to allow you to strangle me out of business,” he said.

In March, Judge Mondo fined him \$500. She said that while he was due in court at 9:30 a.m., he had come in one day at 12:30 p.m. and on another day at 10 a.m., only to whip out his cellphone and

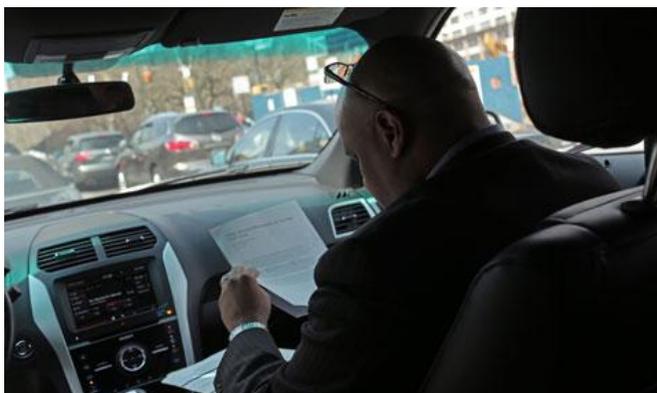
saunter out. She had demanded to know why he was late. “The only issue would be traffic,” he explained. “I take the L.I.E., B.Q.E. and the Grand Central.”

Mr. Rankin insisted in the interviews that he did not understand why he seemed to affect some judges that way. Perhaps, he said, it was because some people were upset by his victories for people accused of crimes, like a young man cleared of a baseball bat assault, and a woman acquitted on charges of shooting a taxi driver in the eye.

He did not mention another reason for the whispers about him. In 2008, his fiancée — an assistant district attorney in Brooklyn, Sandra Fernandez — admitted she had [violated the law](#) by getting confidential criminal history reports on people who were possible witnesses against Mr. Rankin’s clients.

Such information can be gold to a defense lawyer. Ms. Fernandez, who is now married to Mr. Rankin, lost her job and law license. She also pleaded guilty to eight counts of official misconduct.

Mr. Rankin was not charged, and the experience did not rein in an outside courthouse personality who wrestles the justice system to his will — and schedule.



Michael Appleton for The New York Times  
Mr. Rankin, who races from court to court across the city, often blames traffic for his late arrivals.

## Problem for Prosecutors

In the Bronx courthouse, prosecutors say there is a corollary to the rule that delays are the defense lawyer’s friend: Delays are the prosecutor’s enemy.

As cases drag on, they say, jurors tend to blame the prosecutors who are supposedly in control of their trials.



Bronx District Attorney’s office  
Rule Smith in a police photo.

Once Mr. Rankin’s Bronx stabbing trial got under way after that late plane from San Juan, it immediately bogged down. His client, Rule Smith, 18, had been accused of stabbing one teenager in the back and another 11 times in the chest and stomach with a big steak knife in Co-op City, a vast apartment complex in the Bronx.

One victim’s intestines were hanging out.

The prosecutors said it was attempted murder. But Mr. Rankin portrayed the stabbing as if it were a scene from an updated “West Side Story.”

He said Mr. Smith, 16 at the time, had broken the teenage code of Co-op City by dating a girl from one section when he was from another. Some 30 teenage boys from the wronged section had come after him, banging on her door and threatening him, he said. The stabbings, Mr. Rankin argued, were reasonable self-defense.

If the narrative was simple enough, its delivery took a while to unfold.

Mr. Rankin was in no hurry. He would be late. He would make objection after objection. He would hold forth during cross-examinations, working deliberately through yellow legal pads of questions.

One morning when testimony had yet to begin at 11:15 a.m., Jaimee M. Nadell, the lead prosecutor, complained fruitlessly to the judge.

“We’re trying to get this case going,” she said.

The more the prosecutors rolled their eyes and complained about “numerous” delays by the defense, the more Mr. Rankin seemed to enjoy himself.

“Bunch of clowns” was how he referred to the prosecution team in court one day.

## Bogging Down

As agonizing week followed agonizing week, Mr. Rankin insisted he was as interested as anyone in moving things along. Rule Smith was his cousin’s son, and he was not being paid any fee. It was keeping him from more lucrative clients.

Any hardship from delays would be borne by him, not by the government-paid prosecutors, he argued. “I get the salary-paycheck people complaining that we’re not moving too quickly,” he said to the judge. “It’s absurd.”

Before long, every player in the trial seemed to adapt to the crawling pace.

The prisoner would be brought in late by the court officers. The jurors would drift in later and later.

Even some of the witnesses, the young men from Co-op City who described the deadly gang rivalries between the sections, seemed to catch the mood. They would yawn on the stand.

The prosecutors eventually stopped arriving on time. “Just so you know,” Judge Denis J. Boyle said to them one day in midmorning, “Mr. Rankin’s on the Bruckner in traffic.”

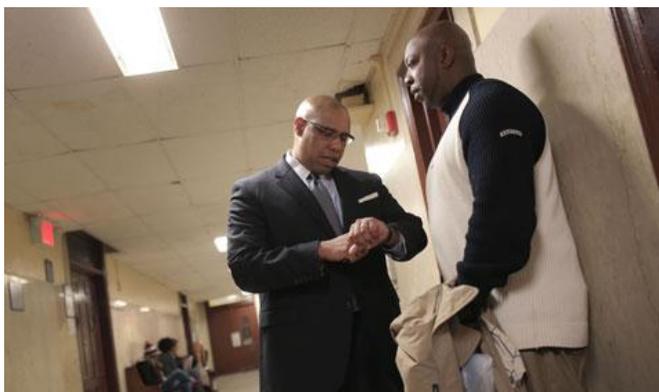
Judge Boyle, gentlemanly and well liked, often seemed to be watching the proceedings rather than running them. After one of Ms. Nadell’s complaints about the delays, the judge responded, “I’m not satisfied about the way this is being done either” — as if someone else were in charge.

He was always on the bench at 9:30 sharp. But he would sit there all alone, except for the court officers or a spectator. He sighed with relief when everyone finally assembled but was not heard asking the lawyers on either side why they were late.

Once, the jury was not called into the courtroom until 11:55 a.m., breaking an hour later for lunch. Another day, the jurors were called in for the first time at 3 p.m. “Every effort is being made to keep this case on schedule,” Judge Boyle said without apparent irony.

The lead prosecutor, Ms. Nadell, eventually succumbed to the leisurely pace. She took a vacation in the middle of the trial. The trial continued, with other assistant district attorneys at the prosecution table, a situation lawyers described as extremely unusual. Even Mr. Rankin said he had never seen it before.

Through it all, Mr. Rankin would keep objecting and laughing and questioning.



Michael Appleton for The New York Times  
Mr. Rankin with one of his clients, Ludovic Jean-Pierre, in a hallway outside a courtroom in Brooklyn.



Michael Appleton for The New York Times  
Mr. Rankin, right, has dismayed judges in several boroughs with his penchant for postponements.

“Let’s not bog down on this,” Judge Boyle would say pleadingly. But bog down they would.

Instead of providing in advance the documents or tapes that Mr. Rankin would need to review, the prosecutors would turn them over in court.

The result was hours in the courtroom as Mr. Rankin read or listened, with the jurors waiting in the jury room. Only the ticking of the courtroom clock broke the silence.

## Closing Arguments

In the seventh week, Mr. Smith took the stand. He had been in jail at Rikers Island for two years waiting for his trial.

That was nothing in the Bronx, where some people wait four and five years.

His narrow tie cinched tightly, he testified he had been scared back in Co-op City, with that crowd after him for being with a girl from the wrong section.

When a few of them came at him armed with a broomstick and a chair, he said, “I just pulled the knife out and started swinging.”

He was a good witness, polite and convincing as he swung away at Mr. Rankin’s softballs. Afterward, Mr. Rankin and his cousin, Rule Hiuallah-Messiah, Mr. Smith’s father, seemed excited. They thought the case was won.

“I said to Douglas, ‘There’s no way I can ever repay you,’” Mr. Hiuallah-Messiah said.

Two years was a long time to wait for a trial, he said. But he understood that delays were usually good for a defendant. “Doug told me that,” he said.

The cousins were right. Days later, Mr. Smith would be acquitted of all charges (only to end up back in jail charged with a new assault three months later).

But first, the lawyers would make their closing arguments. Ms. Nadell said Mr. Smith was a would-be killer, whose more seriously injured victim happened to cling to life long enough to be saved by doctors.

“That man took a butcher’s knife and stabbed him 11 times,” she said. “We’re talking about a butcher’s knife.”

The morning Mr. Rankin was to deliver his summation, the judge and the prosecutors gathered at 10 a.m. By 10:45 there were murmurs that Mr. Rankin was on his way. Maybe he was in traffic again. He arrived at 11:30 without explanation or excuse.

One of the prosecutors, Stephanie Catros, turned to the other. “He has no respect for anybody’s time,” she said.

*Eric P. Newcomer contributed reporting.*

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#### A Courthouse Overwhelmed

By WILLIAM GLABERSON

At a time of slashed judicial budgets across the country, the Bronx, New York’s poorest borough, is a stark picture of what happens when an overwhelmed justice system cannot keep up.

### PART 3

#### Tried Patience

By WILLIAM GLABERSON

Chad Hooks, 23, spent three years, seven months and three days at Rikers Island before his trial on charges of killing a man finally got under way in the Bronx. The family of the victim had to wait, too.

### PART 4

#### An Elusive Right

By WILLIAM GLABERSON

Those accused of minor offenses in the Bronx have all but lost their fundamental right to a trial, subjected to such hardship in pursuit of a hearing that it is often easiest to agree to a plea bargain.

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