

LENNOX, J., IN CHAMBERS.

APRIL 30TH, 1920.

REX v. WILLISON.

Criminal Law—Procedure—Motion to Quash Police Magistrate's Conviction for Vagrancy—Rules of 1908 Made pursuant to Criminal Code—Rule 1285—Motion not Made Returnable within 6 Months after Conviction—Fatal Objection.

Motion by Barbara E. Willison to quash a conviction recorded against her by George T. Denison, Police Magistrate for the City of Toronto, for vagrancy.

The defendant, in person.

T. P. Brennan, for the magistrate.

LENNOX, J., in a written judgment, said that several preliminary objections were taken, the most formidable being that the motion was too late. Rule 1285 (Rules of 1908, made pursuant to the Criminal Code, and printed in Appendix II. to vol. 16 O.L.R.) provides that "the motion shall not be entertained unless the return-day thereof be within 6 months after the conviction . . . , or unless the applicant is shewn to have entered into a recognisance with one or more sufficient sureties in the sum of \$100 . . . or . . . to have made the deposit of the like sum of \$100, with the Registrar of the Court," etc.

If the motion had been made within the time limited, the applicant might probably have been relieved to the extent of allowing her to give the necessary security now, and a proper endorsement of the notice of motion, within the provisions of Rule 1281, might now be made; but, the motion being late, there was no help for the applicant. Rule 1285 is clearly prohibitive if the notice of motion is not made returnable within six months.

The motion should be dismissed, but there should be no costs.

MIDDLETON, J., IN CHAMBERS.

MAY 1ST, 1920.

WILLISON v. WARD.

Malicious Prosecution—False Imprisonment—Action for—Conviction Standing Unreversed—Dismissal of Action as Frivolous and Vexatious—Misconduct of Solicitor.

Motion for an order dismissing the action, on the ground that it was frivolous and vexatious.