

SUTHERLAND, J., IN CHAMBERS.

DECEMBER 14TH, 1917.

REX v. KILGORE.

Criminal Law—Magistrate's Conviction for Vagrancy—Sentence to Imprisonment—Sentence Suspended and Defendant Left at Large—Subsequent Direction of Magistrate for Enforcement of Sentence—Defendant not again Brought before Magistrate—Warrant of Commitment without Formal Conviction—Defective Warrant—Defendant Arrested and Taken to Gaol—Habeas Corpus—Motion for Discharge—Dismissal upon Crown Supplying Conviction and Amended Warrant.

A motion, upon the return of a writ of habeas corpus, for an order discharging the defendant from custody.

Peter White, K.C., for the defendant.

Edward Bayly, K.C., for the Crown.

SUTHERLAND, J., in a written judgment, said that two informations were laid against the accused on the 27th July, 1917: in one he was charged with being a vagrant, and in the other with unlawfully appearing in an intoxicated condition on the streets of Arnprior, in each case "within the space of two days last past to wit on the 26th day of July instant." On the first information there was an endorsement by the magistrate that the accused pleaded "guilty" to the charge and was sentenced to 6 months' imprisonment at hard labour, and that he entered into his own recognizance that if his sentence were suspended he would "go to Carp and take the gold cure from Dr. Groves, August, 17th; this space of time has been allowed in order to let Kilgore have time to earn money enough to pay for cure;" and that sentence "was suspended till called upon." On the other information there was an endorsement to the effect that the accused appeared on the same day, the 27th July, and pleaded "guilty," and was sentenced to pay a fine of \$10 and costs.

A further information for vagrancy was laid against the accused on the 20th August, 1917. On this information there appeared an endorsement by the magistrate that the information "had not been prosecuted. Kilgore was sent to Pembroke to serve sentence, date July 27th, and suspended."

The warrant of commitment returned to the writ was dated the 20th August. It recited that "William Kilgore was this day charged before me, A. Grierson, one of His Majesty's Justices of