



PEOPLE STATE NEW YORK EX REL. ALFRED DIES v. DANIEL MCMANN

256 N.Y.S.2d 908 (1965) | Cited 0 times | New York Supreme Court | February 25, 1965

REYNOLDS, J. Appeal from a judgment of the County Court, Clinton County, denying relator's petition for a writ of habeas corpus. On November 19, 1962 relator was arraigned in Nassau County Court on charges of burglary, third degree and forgery, second degree. At this arraignment relator, represented by counsel, entered a plea of not guilty. Concededly the minutes of the arraignment are mute as to compliance with the then applicable requirement of section 335-b of the Code of Criminal Procedure. Subsequently on January 15, 1963 relator, again represented by counsel, entered a plea of guilty to the charge of attempted burglary, third degree. On this occasion there was compliance with section 335-b. Relator contends that the failure to comply with section 335-b at his arraignment rendered all subsequent proceedings void. We cannot agree. Although section 335-b, prior to its amendment effective September 1, 1963, required that the warning required thereby be given "upon the arraignment of the defendant and before accepting a plea", it has been held that in cases where, as here, the plea was not guilty "no harm or prejudice was occasioned to [the] defendant" and the failure to apprise the defendant at the time of arraignment was not ground for the relief sought herein (People v. Porter, 14 N.Y.2d 785, 786; cf. People ex rel. Colan v. La Vallee, 14 N.Y.2d 83). Judgment affirmed, without costs. Gibson, P.J., Herlihy, Taylor and Aulisi, JJ., concur.

