

Case No. 7,820.

{16 N. B. R. 301.}¹

IN RE KINGSLEY.

District Court, D. Vermont.

Oct. 10, 1877.

BANKRUPTCY—FURTHER EXAMINATION—DEPARTURE FROM
DISTRICT—REFUSAL OF DISCHARGE.

Where a bankrupt has been ordered to submit himself to further examination, a departure from the district before the time appointed, without examination, is such a violation of the order that no discharge will be granted until it is rectified by submission to such examination.

{In the matter of Chester Kingsley, a bankrupt}

W. L. Burnap, for bankrupt

A. F. Walker, opposed.

WHEELER, District Judge. The petition of the bankrupt for discharge having been heard upon the specification of grounds of objection thereto by the opposing creditors, proofs in support thereof and in answer thereto, and argument of counsel, it is thereupon considered that neither the first or second ground of objection is sustained by sufficient proof, and they are therefore overruled. The others relate to his examination under the order of court, and together really constitute but one ground. As to that, it appears that he was ordered to submit himself to further examination at a specified time, and departed from the district before the time arrived, without examination had under that order. There were some reasons for this course relating to his personal convenience and welfare, which, if they had been presented to the court, would perhaps have resulted in vacating the order or requiring the examination to be had at a time more convenient for him. And he may have understood from the course pursued after the order was made that his examination under it was waived, but it does not appear that he was given warrantably to so understand. The departure and failure to submit to the examination was under the circumstances a violation of the order, which, although not so wilful as to deserve proceedings on account of it, has never been rectified, and is such that no discharge or other thing moved for by him should be granted until it is rectified by submitting himself to such examination. This ground is therefore sustained on the present hearing, so far that the further consideration of it is postponed until he shall submit himself, or within the district offer to submit himself to further examination on behalf of these opposing creditors. The petition as to this ground is continued to the Wednesday after the first Tuesday in November, that he may comply with this requirement if he shall see cause.

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