

at the National Pencil Company in the city for almost five years past. I am acquainted with Mr. Leo M. Frank, also Mr. R/P. Barrett and knew Mary Phagan quite well and knew the color of her hair. On Monday, April 28th, I was at the National Pencil Company Factory and Magnolia Kennedy called my attention to the hair on a certain machine that R.P. Barrett was alleged to have found there. At that time I gave it as my positive opinion that the hair on the machine was not that of Mary Phagan, as it was entirely too light in color to be the hair of said Mary Phagan. I now state that I am most positive that the hair I saw on the machine could not have possibly have been Mary Phagan's hair and that the hair on the machine was much lighter in color than was the hair of Mary Phagan.

MARY PIRK, MRS. G. DENHAM, MAY GOODMAN, MAMIE STEPHENS,

Sworn for the movant. We personally know Mrs. Cora Falta/ Some of her associates are Miss Jimmie Mayfield, Mrs. O. Johns, Marjorie McCord, Mary Pirk. Mrs. Falta is a person of good moral character and credibility, and we would believe her on oath.

L.A. QUINN, MARY PIRK, MRS. G. DENHAM and EULA FLOWER,

Sworn for the movant. We are acquainted with Mrs. Cora Falta. She was well acquainted with Mary Phagan during her lifetime and she could know the color of Mary Phagan's hair. She was in a position by reason of seeing the hair claimed to have been found by Barrett to determine whether the hair found by Barrett looked like the hair of Mary Phagan and was thereby enabled to form an opinion whether the hair of Mary Phagan and that found by Barrett was identical. *attested by C. W. Burke as Notary*

GROUND 4.

ALICE MARJORIE McCORD, Sworn for the movant. On the morning of Monday, April 28, 1913, my attention was called to some hair that was on a lathe machine on the second floor in the National Pencil Factory, and that I examined said hair very closely. I knew Mary Phagan during her time of employment at the factory and knew the color of her hair, and in my opinion, the hair found on the lathe machine was not that of Mary Phagan, as it was much too

light to be the hair of Mary Phagan.

*attested by C.W. Burke*

E.F.HOLLOWAY, L. A. QUINN, GRACE HIX, MARY PIRK, Sworn for the movant. We are acquainted with Miss Alice Marjorie McCord; that said Alice Marjorie McCord <sup>was</sup> well acquainted with Mary Phagan during her lifetime. She could ~~not~~ know the color of Mary Phagan's hair and she was in a position by reason of seeing the hair claimed to have been found by the witness Barrett upon the second floor of the factory, to determine whether the hair found by Barrett looked like the hair of Mary Phagan and was, thereby, enabled to form an opinion as to whether the hair of

Mary Phagan and that found by Barrett was identical.

*attested by C.W. Burke as Notary Public*

E.F.HOLLOWAY, LEONARD JACOBUS, R. P. BUTLER, EULA MAE FLOWERS, Sworn for the Movant. We know personally Miss Alice Marjorie McCord and some of her associates are Mary Pirk, Mrs. G. Denham, Jimmie Mayfield, Mrs. O. Johns. We know that Miss Alice Marjorie McCord is a person of good moral character and credibility and we would believe her on oath in a court of law.

*attested by C.W. Burke as Notary*

GROUND 5.

ALBERT McKNIGHT, Sworn for the Movant. I was a witness at the trial of the case of the State of Georgia vs. Leo M. Frank, and when placed upon the stand I testified to a story that had been prepared for me by R.L Craven, a white man, under whose direction he worked at the store of Beck & Gregg. The story prepared for me by said R.L. Craven was written by Mr. Craven and witnessed by Emmett H. Pickett, and Angus Morrison, Jr. and both of whom are white men, and also in the employ of Beck & Gregg Hardware Company at their store. These witnesses told me that I would be obliged to stick to the story prepared by Mr. Craven as they had witnessed same and that in the event I undertook to deny the story they would send me to the chain gang, and explained to me that the word of three white men would be taken in preference to that of any negro. Since the trial of said Leo M. Frank I have always been sorry for the false part I played in it and since I have had time to reflect on the great wrong that I have done I am determined to tell the truth and now say that the story prepared for me by

R.L.Craven is not the truth, and that the evidence I gave at the above named trial was not the truth. It is true that my wife, Minola was employed at the home of Mrs.Selig, where Mr.Leo M.Frank resided, and it is true that on Saturday, April 26th, 1913, I called at the Selig home to see my wife, Minola, but I reached the Selig home on the date in question a little before twelve o'clock noon, and I heard the twelve o'clock whistle blow at the Southern Railway shops after I reached the Selig home and also heard the twelve thirty o'clock whistle blow at the same shops while I was talking with my wife, and when I heard the twelve thirty o'clock whistle blow, I left the Selig home and walked up Georgia Avenue to Pulliam Street, then up Pulliam Street to Bass Street, and then to my own home which was at that time located in the rear of No. 51 Pulliam Street. When I reached the Selig home, on Saturday, April 26, 1913, my wife, Minola was busy preparing the noontime meal, but she had not served the meal before I left the house. I did not see Mr. Leo M.Frank at all on April 26, 1913, at any time or place, and my evidence at the trial of Mr.Frank was the result of a plan perfected by said R.L.Craven to collect the reward offered for the arrest and conviction of the murderer of Mary Phagan, a part of which reward was promised to me by said R.L.Craven as a reward for the false testimony I gave at the trial. I told Mr. Craven that I did not want to tell any lies on Mr.Frank, but Mr. Craven would tell me that in order to collect the reward, it was necessary for me to go right ahead and do what he, Craven, told me to do, and I was weak enough to follow said Craven's instructions and do as I was told by him. Mr. Craven told me to say that my wife, Minola, had stated to me that when Mr.Frank came home on April 26, 1913, that he was drunk and that she had seen Mr.Frank with a pistol in his hand and heard him threaten to shoot himself, and that while drunk that night, he, Frank, had made his (Frank's) wife sleep on the floor. All these statements were created by said R.L.Craven, and that Mr.Craven told me that it was necessary for me to swear to these facts in order to support the evidence of my wife, who had made an affidavit to the same set of alleged facts. I now say that if I am called upon to testify again regard-

ing this statement, or at the trial of Mr. Frank, I will testify to all stated by me in this affidavit, only because it is the truth, and I further state that I have talked with no one about the case, and my evidence in the case referred to in this affidavit, except C.W. Burke, who has plainly stated to me that he represents the firm of Rosser, Brandon, Slaton & Phillips, in the interest of Mr. Leo M. Frank, and Mr. Burke has made me no promises whatsoever, or held out any offers of reward, and the evidence I give herein is made of my own free will and accord.

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(GROUND/~~STRIKEN~~ UPON MOVANT'S MOTION)

GROUND 7.

MRS. ETHEL HARRIS MILLER, Sworn for the Movant. Prior to my marriage and removal to Chattanooga, in July 1912, I was a resident of Atlanta, Ga. I am personally acquainted with Leo M. Frank and have been since the year 1910, and have known him continuously since that time. I was well acquainted with Leo M. Frank on April 26, 1913. On April 24, 1913, I went to Atlanta to visit my parents, and on Saturday after reaching Atlanta, to-wit on Saturday, April 26, 1913, Memorial Day, I went to the store of J.P. Allen Co. on Whitehall Street to meet my sister, Miss Florence Harris, who was employed at that store. I reached the store at one o'clock, at which time the store was to close for the day, it being a holiday, and at which time my sister was to leave for the day. I and my sister left the J.P. Allen store a few minutes past one o'clock and were joined in front of the store by a friend, Mr. Maier Lefkoff, and all three of us walked together down Whitehall Street to the corner of Whitehall and Alabama Streets, at which point I and my sister turned on Alabama Street, and went to Forsyth St., where we caught our car home. On turning the Jacobs Pharmacy corner at said time, which was just about 10 minutes past one o'clock, on the afternoon of April 26, 1913, I saw and recognized Mr. Leo M. Frank, who was standing on the sidewalk with a bundle of package under one arm; and said Leo M. Frank recognized and spoke to me, tipping his hat. ~~X~~ I did not tell this fact to Mr. Frank's attorneys, nor did I ever remind Mr. Frank of it. It was only con-

siderably after the trial and conviction of Mr. Frank that I acquainted his lawyers with these facts, and I then told either Mr. Leonard Haas, or Mr. Herbert J. Haas, I do not now recall which. The reason that I did not know the importance of my having seen Mr. Frank at this time, I did not know that it would have any bearing upon the case and when I first learned that it would have a bearing on the case I was then reluctant to tell these facts, as I desired to avoid notoriety and publicity; however, after I was made to understand that my having seen Mr. Leo M. Frank at 10 minutes past 1 o'clock in the afternoon on April 26, 1913, was an important point in this case, I communicated these facts to his attorneys, at a time which, as already stated, was considerably after his conviction, the exact date I do not recollect. Some of my associates in Atlanta, Ga. are Dr. and Mrs. B. Wildauer, Mr. J. Saul, Mr. and Mrs. J. J. Saul, and in Chattanooga, Tenn., Rabbi Julian H. Miller, Mr. and Mrs. H. M. Fine and Dr. H. S. Long. I am willing to come to Atlanta and testify as to any of the facts stated in this affidavit, and as to any other facts which may be within my knowledge, and material in the case.

MAIER LIEFKOPF, Sworn for the Movant. On April 26, 1913, I accompanied Mrs. Ethel Harris Miller when she went to meet her sister at J. P. Allen's on Whitehall Street, between Alabama and Hunter Streets. We arrived at Allen's about one o'clock, perhaps five minutes after one. We walked from there down Whitehall Street, towards Alabama and turned up Alabama Street. I should say we reached the corner of Alabama and Whitehall Streets, at about ten minutes after one, as we made no steps between Allen's and that point. I do not know Mr. Frank and I do not remember either of the ladies bowing to him at that time.

S. N. TRITTEBAUM, Sworn for the Movant. I am a court reporter and reported the oral argument made by Solicitor General H. M. Dorsey to the jury in the matter of the State vs. Leo M. Frank in Fulton Superior Court, on August 22, 23 and 25th; The Solicitor made the following statements:

"All right; but you prove an alibi by that little Curran girl, do you? She swore that she saw you at Alabama ~~xxxx~~ and

Broad at 1:10, and yet here is the paper containing your admission made in the presence of your attorney, Monday morning, April 28th, that you didn't ~~have~~ leave the factory until 1:10. Gentlemen, talk to me about sad spectacles, but of all the sad spectacles that I have witnessed throughout this case, - I don't know who did it, I don't know who's responsible and I hope that I'll go to my grave ~~in ignorance~~ in ignorance of who it was that brought this little Curran girl, the daughter of a man that works for Montag, into this case, to prove this alibi for this red-handed murderer, who killed that little girl to protect his reputation among the people of his own race and religion. Jurors are sworn, and His Honor will charge you, you have got the right to take into consideration the deportment, the manner and bearing, the reasonableness of what any witness swears to, and if any man in this courthouse, any honest man, seeking to get at the truth, looked at that little girl, her manner, her bearing, her attitude, her actions, her connections with Montag, and they not know that she, like that little Bauer boy, had been riding in Montag's automobile, I am at a loss to understand your mental operations. But if Frank locked the factory door at ten minutes past one, if that be true, how in the name of goodness did she ever see him at Alabama and Broad at 1:10? Mark you, she had never seen him but one time; had never seen him but one time, and with the people up there on the street, to see the parade, waiting for her companions, this daughter of an employe of Montag comes into this presence and tells you the unreasonable absurd story, the story that's in contradiction to the story made by Frank, which has been introduced in evidence and will be out with you. She saw that fellow up there at Jacobs'

MRS. MAX MEYER, Sworn for the Movant. I am a sister of Mrs. Ethel Harris Miller, formerly Ethel Harris. On April 26, 1913, Mrs. Miller, together with Maier Lefkoff met me at the department store of J.P. Allen Company, where I worked, in front of said store, in the middle of the block of Whitehall Street between Alabama and Hunter Streets, in the City of Atlanta, at about one o'clock of said day. After meeting in front of said store, Mrs. Miller, Lefkoff and I walked down Whitehall Street until we reached the corner of Alabama Street? We turned up Alabama Street and walked to the corner of Forsyth and Alabama Streets, where we caught the Magnolia Street car for our home. In my opinion we reached the corner of Alabama and Whitehall Streets between one o'clock and 1:10. I am not acquainted with Leo M. Frank and do not recall whether my sister bowed to anyone at that corner or not.

FREDERICK J. PAXON, JAKE E. NEWMAN, Sworn for the Movant. We are personally acquainted with Maier Lefkoff, of Atlanta, Fulton County, Georgia, and said Maier Lefkoff is a person of good moral character and credibility and we would believe him on oath in a court of law.

F. J. PAXON MISS MAY EVENS, Sworn for the Movant. We know personally Mrs. Ethel Harris Miller, of Chattoonga, Tenn.

and some of her associates are Miss Dollie Evans, Atlanta, Ga., Miss Hattie Phillips, Atlanta, Ga. Mrs. Ethel Harris Miller is a person of good moral character and credibility, and we would believe her on oath.

B. WILDAUER, Sworn for the Movant. I am personally acquainted with Maier Lefkoff and have known him since his birth. His character for truth and veracity is good. Said Lefkoff's associates are, among others, Joe Weinberg, Ike Eplan, Sam Hirsowitz, Ike Hirsowitz, Joe Hermann, Sam Smullyan and S. B. Edison.

MRS. M. MEYER, Sworn for the Movant. I and my sister, Mrs. Ethel Harris Miller were both residents of Atlanta, Georgia, until recently, and had lived in Atlanta all our lives until I moved to Chicago some two or three months prior to making this affidavit and until my sister, Mrs. Miller moved to Chattanooga about July, 1912. Our associates in Atlanta were to a great extent the same, and I name as some of our associates the following, to-wit: Dr. and Mrs. B. Wildauer, Dr. and Mrs. L. C. Rouglin, Mrs. and Mr. H. Sapl, Mrs. J. J. Saul.

JOS. HERMAN, Sworn for the Movant. I am acquainted with Maier Lefkoff and have known him for fifteen years. His character for truth and veracity is good. I know the said Lefkoff was in the City of Atlanta, State of Georgia on the 26th day of April, 1913, because I was in the company of said Lefkoff sometime during the afternoon of that day.

GROUND 8.

DEWEY HEWELL, Sworn for the Movant. I was an employee of the National Pencil Company. I worked for said Company for only a few days, and during the time of my employment there I never met Leo M. Frank to know who he was and never in my life did I meet Mary Phagan, nor did I ever see Mary Phagan, and I have never seen the defendant and Mary Phagan together. At the time of the original trial of the defendant, I was a resident of the Home of the Good Shepherd, at Cincinnati, Ohio, and Mrs. Bonfield, the police matron representing the City Police Department of Atlanta, Georgia, came to Cincinnati and returned me to Atlanta, where I was used as a witness in the above case, after which I was again returned to the Home of the Good Shepherd at Cincinnati. During my confinement in a large room adjoining the office of Solicitor General Dorsey, I met some 12 or 15 other girls, who, like myself, were to be witnesses against the defendant, among whom was a girl named Maggie Griffin, who was very enthusiastic about going on the stand herself and testifying against the defendant. The said Maggie Griffin, coached me and told me how to testify and what to say when I went on the

stand to testify. Before I went on the stand, Solicitor Dorsey came into the room where the girls were confined and gave us all a lecture and told us that when we went on the stand to go right ahead and tell everything we knew and answer his questions right off sharp and quick. While the girls before mentioned were crowded in said room, there was a great deal of talk and gossip going on among them, and many of them said they were afraid to go on the stand and testify to an untruth, and they were also afraid to go into the court room and testify at all. The said Maggie Griffin stated several times how she was going to tell everything that the Solicitor wanted to know when she went on the stand, and when I made the statement that I was afraid to go on the stand and that I knew nothing about the defendant and knew nothing about Mary Phagan, the said Maggie Griffin volunteered with enthusiasm to tell me what I should say, and the said Maggie Griffin thereupon rehearsed me many times in regard to the testimony I should give, and Maggie Griffin told me that I must <sup>say</sup> that I was acquainted with the defendant and that I knew his character to be very bad, and that I had seen defendant whispering with Mary Phagan, with his face very close to her, and further, that I had seen defendant place his hand upon the person of Mary Phagan. I thereupon told Maggie Griffin that it would be impossible for me to testify to all that the said Maggie Griffin had instructed me to say, and Maggie Griffin said: "We will go over it again so that you won't forget it" and repeated it several times. I did not even know where Mary Phagan worked in the factory, but I was made to say that I knew her by said Maggie Griffin, and whatever I testified to regarding either the defendant or Mary Phagan was the result of coaching given to me by the said Maggie Griffin. During the time of my employment at the National Pencil Factory, I never heard any employee, male or female, say that defendant was a man of bad character, and had never seen any wrong doing on his part.

(This affidavit was witnessed by  
C. W. Burke)



GROUND 9.

RUTH ROBERTSON, Sworn for the Movant. I was a witness in the case of the People against Leo M. Frank, and on the morning of the day that I testified in the case a police detective whose name I believe to be Bass Rosser, came to my house and conducted me to the office of Solicitor Dorsey. This was my first meeting with Mr. Dorsey. The meeting was in a room in a building that I believe is opposite, or in the vicinity of the building in which the trial was conducted. After being introduced to Mr. Dorsey by the detective, Mr. Dorsey greeted me effusively; he said he was glad to ~~make~~ that I had come down to see him, and that he was sure I would make a good witness and would help him out in the Frank case. He questioned me and talked to me in the room alone for about ~~an~~ half an hour, beginning at about eight thirty o'clock. As I remember it, there was no proceedings in court on that day until later in the forenoon, at nine o'clock, I believe; it was on Wednesday, but the date I do not recall. In the beginning of the conversation with Mr. Dorsey, he asked me to go ahead and tell him all I knew about Mr. Frank and Mary Phagan. I told him I knew nothing, ~~except~~ against or about Mr. Frank, except that I worked for him, and, so far as I knew, he was a gentleman in every respect, or words to that effect. He asked me if I knew Mary Phagan, and I told him I did. He insisted that as I had worked at the National Pencil Company for a considerable time, that I must know something against the character of Mr. Frank and asserted that he was a very bad man. I told him that I knew absolutely nothing against Mr. Frank's character. Mr. Dorsey insisted that I did, and persisted in the statement that he was of bad character. He asked if I had ever been in Mr. Frank's office. I told him that I had on several occasions, always on business errands; that is, errands connected with the work I was performing in the factory. He then asserted that I had been in Mr. Frank's office, with him alone, to keep dates for purposes other than business, to which I replied that it was not true. He finally openly insulted me by affirming that I had had sexual intercourse with Mr. Frank in his office, or some other room or place in the factory which Mr. Frank kept for the purpose of meeting girls, and he insisted that I knew the

location of such room or place in the factory, and that I knew of other girls that had been to this room with Mr. Frank. I was shocked by the broad insinuation and affirmative statement of Mr. Dorsey, and I told him that all such statements and allusions were lies, and that I had never heard of any such thing ever occurring in the factory, or elsewhere, in which Mr. Frank and any girl employee of the factory were parties to; and I state now after mature deliberation and thought, that I have never heard such insulting language by direct speech and innuendo, by any of the commonest laborers in and about the National Pencil Factory, as was used to me by Solicitor Dorsey when in his private office. He being the Solicitor, and I, being in his office, believed at the time that he possessed some sort of right to thus accuse me and insult me; and, under this belief, I was obliged to take his insults and listen to his scandalous statements, by direct speech and innuendo, without openly resenting them further than to deny every single one of them. I wish to refer to my evidence, as given on the stand at the trial of Mr. Frank, as to my answers to questions of Mr. Dorsey, wherein I was made to say that I had heard Mr. Frank call Mary Phagan by her first name, "Mary". Upon reflection, I wish to explain that my answer, as above repeated, was due entirely to my nervousness because of the badgering that I had been subjected to by Mr. Dorsey; and, as a matter of fact, I cannot recall one single instance wherein I ever heard Mr. Frank address Mary Phagan by any name, and this is the veriest truth. I would not recall, or cannot recall now, under calm deliberation, that I ever heard Mr. Frank address Mary Phagan by any name, as I have never seen him speak with her at any time or place, except when instructing her how to perform her work better and more rapidly while at her work in the factory. Referring back to my first call on Mr. Dorsey, and where he had questioned and talked to me for about a half an hour, at the conclusion of which I was directed to another large room, adjoining I believe where Mr. Dorsey had talked to me, in which there were twelve or fifteen other girls and women- all witnesses in the Frank case, and called by Mr. Dorsey, according to my understanding. Among these girls, I remember one Carrie Smith, Myrtle Gato, Maggie Griffin and Dewey Howell. I remained there

until about twelve o'clock when I went to the courthouse and took the witness stand. Before Mr. Dorsey went over to the courthouse, he came into the room where the girls above described and I, myself, were, and gave us a lecture and told us all that when we went on the stand to go right ahead and tell everything we knew and answer his questions right off sharp. After the lecture I didn't see Mr. Dorsey again until I went on the witness stand at the courthouse. While remaining in the large room with the twelve or fifteen girls, before I was called to go to the courthouse, there was a great deal of talk and gossip among the girls there, some of them said they knew nothing against Mr. Frank and that they were timid and were afraid that they would be scared when they went into court. Maggie Griffin, however, appeared to welcome and relish the idea of going on the witness stand and told several times how she was going just to tell everything Mr. Dorsey wanted to know, when she went on the stand. Dewey Hewell said she did not know anything about Mr. Frank or Mary Phaga, or anything concerning the case, and Maggie Griffin volunteered, with enthusiasm to tell her what to say and did tell her and rehearsed her a t once side of the room. I heard Maggie Griffin tell Dewey Hewell that she must say she ~~had~~ knew Mary Phagan, and that she knew Mr. Frank and knew that he was of bad character, and that she should tell everything bad she could think of about him, and to say that she had seen Mr. Frank with his hands on Mary Phaga, and that she had seen him whisper to her or talk to her with his face close to hers. Maggie Griffin and Dewey Hewell left the large room described two or three times together, and returned together and I heard Dewey Hewell say repeatedly that she was afraid she would forget all Maggie had told her to say when she went into the court house, and Maggie said, "We will go over it again, so you wont forget it." This was repeated several times. I recall hearing Dewey Hewell say pointedly that she did not know where Mary Phagan worked and that she did not know her by name; but she was rehearsed to know her by Maggie Griffin, in that room; and to say whatever she did say on the witness stand. I have seen the evidence as reported as being given by Dewey Hewell, and recognise in her answers precisely what I

heard Maggie Griffin tell her to say. I don't believe either one of these girls appreciated what it was to swear falsely, as they were giggling and laughing over the evidence they were to give when they went on the witness stand.

JOS. STELKER, FRED ZIGANKI, EULA FLOWERS, LEONARD JACOBUS, Sworn for the Movant. We are acquainted with Miss Ruth Robertson, and her residence is in the City of Atlanta. She could have knowledge of the facts testified to by her by reason of the fact that she had been employee of the factory, was acquainted with Leo M. Frank and the employees of the pencil factory.

*attested by C. W. Burke as Notary.*

GROUND 10.

MRS. MAMIE EDMONDS, Sworn for the Movant. I first went to work at the National Pencil Factory in October, 1911, and left there about March 1, 1913. I accepted re-employment with them about two weeks before the trial of Leo M. Frank. I never at any time witnessed any acts in Mr. Frank's office that would lead me to think that he was acting in any way unbecoming to a gentleman.

I have never seen any woman in Mr. Frank's office except a stenographer and I never saw Mr. Frank familiar with her. Mr. Frank when passing through the factory was at all times businesslike in his actions and dealings with the employees. I was a witness for the State at the trial of Leo M. Frank and testified that on a certain occasion <sup>I</sup> ~~she~~ was in a ladies dressing room on the fourth floor, in company with one Ethel Stewart and Irene Jackson. Miss Stewart was in the room only part of the time while ~~she~~ I and Miss Jackson were there. The Solicitor asked me if I was ever in the dressing room in company with Miss Mayfield and Miss Jackson when they were partially dressed, when Mr. Frank came to the dressing room and looked in. I replied that I was not in the dressing room with Miss Mayfield, but was there with Miss Jackson when she was in a partially dressed condition and that Mr. Frank did look in the dressing room at that time. The Solicitor asked me what Mr. Frank said when he looked in the dressing room and I replied that he said "What's the matter girls, haven't you got any work?" and Miss Jackson replied, and then added "We are dressing, blame it"

and at this point, I said that Mr. Frank shut the door and disappeared. When I was on the witness stand I only answered such questions as were put to me by the Solicitor General or by counsel for Frank. If I had been permitted to tell the facts in my own way I would have told them exactly as I am telling them now. When Mr. Frank opened the dressing room door and looked in and asked the girls if they did not have any work to do, none of them were in an exposed condition. I had removed my outside street skirt, but my person was fully protected by my underskirt and while Miss Jackson had removed a part of her clothes, her person was not in any way exposed. Detective Bass Rosser called at my home during the trial of Mr. Frank and interviewed me and asked me a great many embarrassing questions as to what I knew against the character of Mr. Frank. I told him that I knew nothing that would reflect on Mr. Frank, and further told him that so far as my knowledge went and so far as I had ~~observed~~ observed, Mr. Frank always conducted himself as a gentleman. I do not think Mr. Frank showed me the proper respect in coming into the dressing room as he did.

DEBERT JONES, TULLIE CALDWELL, OZIE LEADFORD, H. G.

SCHIFF, Sworn for the Movant. We know Mamie Kitchens Edmonds, and she could have knowledge of the facts testified by her by reason of the fact that she had been an employee of the factory and was acquainted with Leo M. Frank as an employee there.

*attested by C. W. Burke as notary.*

GROUND 11.

MARIE KARST, Sworn for the Movant. I worked at the National Pencil Company about eighteen months prior to January, 1912, and knew Leo M. Frank. I was a witness for the State at the trial of Leo M. Frank and testified that his character was bad, and I was not cross examined. If I had been asked as to how I knew Mr. Frank's character was bad, I could only have said because I had heard girls say that they were afraid to have him catch them loafing. No girl or woman ever told me that Mr. Frank had ever in any way insulted them, I never saw any woman in Mr. Frank's office and never heard any other girl or woman say that they never saw any woman in Mr. Frank's office drinking or acting in any way

unbecoming to a lady. I was brought into the case against Mr. Frank by detective Bass Rosser and was subpoenaed to the office of Mr. Dorsey twice before the trial and questioned very closely by Mr. Dorsey. He told me to say that Mr. Frank's general character was bad and as illustrating to me how he desired me to state that Mr. Frank's character was bad, he said, "I want you to state that his character is bad just as you would state that Mayor Woodward's character was bad, and in the same manner you had heard that Mr. Frank's character was bad. That is the way I want you to testify and I want you to answer my questions right off sharp and quick." When Mr. Dorsey was prompting me and questioning me in his office, he did not at any time use the word "lasciviousness", but when I went on the witness stand he did use the word and asked me if Mr. Frank's character for lasciviousness was good or bad, and I answered "bad" in the face of the fact that I did not know the meaning of the word lasciviousness, and never had it explained to me until today. I deny most emphatically that Mr. Frank's character or reputation is bad for lasciviousness. He always made the girls at the factory attend strictly to business and he was not generally liked by them on account of his strictness with them in his dealings regarding their work.

H. G. SCHIFF, JOS. STELKER, LEONARD JACOBUS, AND L. A. QUINN, Sworn for the movant. We are acquainted with Miss Marie Karst. She could have knowledge of the facts testified to by her by reason of the fact that she had been an employee of the factory and had been ~~acquainted~~ acquainted with Leo M. Frank as an employee of the factory, *attested by C. W. Burke.*

(GROUND 12 STRICKEN UPON MOTION OF MOVANT.)

GROUND 13.

MARY RICH, Sworn for the Movant. I know Jim Conley and at about 2:15 o'clock P. M. Saturday, April 26, 1913, Jim Conley come out of alley in rear of the National Pencil Factory and bought a 20¢ dinner of me, and after getting the dinner in his hand, he went back to the aforesaid alley and I did not see him any more that day. *(This affidavit in pencil, was attested in ink by C. W. Burke as Notary Public.)*

MARY RICH, SWORN (before Commissioner D.O. Smith) I knew Jim Conley on April 26, 1913. I don't know whether I would know him now or not. Jim said it was Memorial Day <sup>our Holiday.</sup> I saw him after the noon hour, after two o'clock. I asked a man who come along and he said it was 2:30. Jim had gone <sup>and so I can not give the definite time</sup> at that time. I saw him between Madison Ave. and Forsyth St. on Hunter St. where I have been selling lunches for 3 or 4 years. He bought a 20¢ dinner from me and has not paid me yet. I was busy when he left and I don't know where he went. I don't know what direction he came from or went to when he left me. I have not seen him since. Mr. Dorsey is the only man I have talked to about my testimony. No one carried me there to see him. I went by myself. Mr. Dorsey did not try to get me to say it was Labor day instead of Memorial Day. I told him Jim said "It was our Holiday."

D. O. SMITH, Sworn for the Movant. I acted as Commissioner under the court order in the case to take the depositions of Mary Rich. This woman Mary Rich was very loath to begin answering any of the questions asked and it was with great difficulty she could be made to begin answering any of the questions. She stated she only wanted to give her evidence before Solicitor General Dorsey, or in Court, and repeatedly insisted that she did not want to testify except in Mr. Dorsey's presence or in court, as she did not know me or whether I had any right to question her.

GROUND 14

G. BURTIS DALTON, Sworn for the Movant. The newspaper accounts of said murder was the topic of general conversation at the boarding house where I was living, and during one of the several conversations that daily took place there regarding the very sad murder, I made the remark that I had been to the National Pencil factory several times, and this I confided to a fellow boarder named R.L. Mann, also that I had had immoral relations with a girl in the basement of the said National Pencil factory, and I thought no more of my remark until one day when city detectives Campbell and Starnes called at my boarding house and told me that Mr. R.L. Mann had reported to them that I knew some bad things against Leo M. Frank. I at once became indignant and promptly told the detectives that if R.L. Mann or any other person had reported to them that I knew anything bad against Leo M. Frank or against his character, that said informer or informers were

telling a falsehood and I then and there told detectives Campbell and Starnes that so far as my knowledge of Leo M. Frank went or was concerned that the said Leo M. Frank was a gentleman in every respect and way. Detectives Starnes and Campbell laughed at the declaration I made in defense of Leo M. Frank and treated my statement as a joke, and further that they would and did insist that I admit that I knew Mr. Frank to be a man of bad character, and that I had seen Mr. Frank go into closets and dressing rooms with various women and girls at various times at the National Pencil Factory, and that I had joined Mr. Frank on several occasions in acts of immoral conduct with women and girls, and that I had on various occasions joined Mr. Frank and women in the office of Mr. Frank and that on these occasions we would all drink beer and have a so called good time, and that I had seen Jim Conley and Leo M. Frank on various occasions talking earnestly together and that women and girls had told me that Mr. Frank had committed both natural and unnatural acts of intercourse with them, and that I had at various times taken women to the basement of the pencil factory for immoral purposes, with the knowledge and consent of Mr. Frank and that detectives Campbell and Starnes plainly told me that they had ~~made~~ called on me to see if I would not support the statements of Jim Conley. The suggestions as outlined above and as made to me by detectives Campbell and Starnes caused me to feel indignant and insulted, and I so expressed myself at the time ~~and~~ ~~and~~ in forcible language to detectives Starnes and Campbell, and I promptly told the detectives referred to that every suggestion they had made was untrue, and I proceeded to deny separately and collectively every suggestion made ~~by~~ <sup>to</sup> me by detectives Starnes and Campbell as outlined above in this statement. I told the detectives referred to at that time and now that I do not know Leo M. Frank; I know nothing against or about the character of Mr. Frank, and that I never saw Mr. Frank go into any closets, dressing rooms or other places with any woman or girl at any time or place, and that I never joined Mr. Frank at any time or place in acts immoral with women or girls; and that I never at any time or place saw Mr. Frank in conversation with Jim Conley, and no women ever told me that Mr. Frank had committed either natural or unnatur-



al immoral acts with them or attempted to do so or asked to do so. I did tell detectives Campbell and Starnes that I had been in the basement of the National Pencil Factory with one Daisy Hopkins for immoral purposes, but I told the detectives then and I now say that that I never went to the factory with Daisy Hopkins with the knowledge or consent of Leo M. Frank, but I ~~did~~<sup>told</sup> the detectives Campbell and Starnes at the time of the conversation referred to in this statement and I now state that I went to the basement of the factory with the consent and knowledge of Jim Conley only, and said Jim Conley always received a tip of twenty five cents from me for such privilege, and said Jim Conley would permit me and Daisy Hopkins to go in the basement without being seen by anyone, and the said Jim Conley would remain on guard for me while I was in the basement with the understanding thoroughly understood between me and Jim Conley that said Conley would warn me if Mr. Frank or anyone else should happen to come along and possibly disturb me while I was in the basement and the said Jim Conley would assist me and Daisy Hopkins to get out of the factory without being seen by anyone. On one occasion I looked into Mr. Frank's office, but Mr. Frank did not see me, as Mr. Frank was busy at the time talking with Daisy Hopkins, who had gone to the factory in company with me for the purpose of drawing three dollars on her salary account at the factory, and I saw in Mr. Frank's office at the time referred to a lady whom ~~he~~ I have since learned to be Miss Eula Mae Flowers, and another woman who dressed like and looked like a factory employee, but there was nothing wrong going on in the office on the occasion referred to, and there was no evidence that there was or had been any beer drinking or drinking of any kind, and Mr. Frank was sitting at his desk apparently attending to his business, and ~~represents~~ as soon as Daisy Hopkins had drawn the money from her salary account as referred to above I and the Hopkins woman at once left the factory together and I never saw Mr. Frank any more. If anyone gained the impression from the evidence I gave at the trial that I knew or knew anything against the character of Leo M. Frank, I now want to disabuse their mind of any such false impression, and I want everyone and everybody to know that I know absolutely nothing about or against the character of Mr. Leo M. Frank.

*This affidavit witnessed by C. W. Burke*

GROUND 14

H. F. BECKER, Sworn for the Movant. I was master mechanic at the National Pencil Factory in September, 1908, until the last Saturday in December, 1912. During that entire time I signed factory orders for all goods and supplies. I had authority to sign all orders for all goods and supplies I needed. The only other person who had authority to sign orders was Leo M. Frank. The method adopted by me and Mr. Frank in connection with the purchase of supplies was as follows: The orders or requisitions were made on pads and these pads were made so as to contain duplicate sheets. One of the sheets was the original made by me in behalf of the factory and which order would be sent to the concern which would furnish the supplies. A carbon sheet was placed between this original sheet and the second sheet which constituted a carbon copy and which was in all respects a duplicate of the original order so sent out. To all such orders or requisitions that I sent out I was required to affix my name and my name would accordingly appear on the carbon sheet whenever the same was used in connection with the original sheet. The carbon sheet was invariably used by me and my signature was invariably affixed. Each order made out by me was given a number and this number appeared both on the original sheet which went to the supplier of the material and the number also appeared on the carbon copy which was kept. When the supplies so ordered were furnished by the house to whom the order was given, the number of the order was required to appear on the invoice or bill covering said supplies so that the bill would be identified by the order number. This was the system which Mr. Frank and I put into force in the purchase of supplies and was carried out during the entire time I was at the Pencil Company factory. I have examined the exhibit attached to this affidavit. It is a reproduction of the carbon copy used by me while in the employ of the pencil factory. The blurred signature which appears about the center is my genuine signature. The signature however is very much blurred, only the last letters "cker" are fairly legible, as well as the characteristic loop at the end of the name. In my opinion

said letters and loop were made by me, but if the original paper was shown me I could be more certain. At the time I left Atlanta the entire supply of blanks, containing the figure "190" on the date line had been exhausted and a new stock of order blanks containing the figures "191" had already been put in use. Shortly before leaving Atlanta I personally packed up all of the duplicate orders on carbon copies which ~~me~~ I had written and which had already been filled and sent them down to the cellar of the factory to be burned and destroyed. Whether the order to burn or destroy was fully carried out I do not know. In my opinion the exhibit annexed to this affidavit is a photographic reproduction of a copy of an order made out by me prior to my leaving the employ of the National Pencil Factory.

(The Exhibit attached to said affidavit consists of a photographic copy of one of the notes found by the body of Mary Phagan, the same having been designated on the original trial as State's Exhibit Z.)

H. G. SCHIFF, F. ZIGANKE, Sworn for the Movant. We are personally acquainted with H.F.Becker, who severed his connection with the National Pencil Company about December, 1912. We are familiar with the signature of the said Becker. We have examined the photographic copy attached to the affidavit of said Becker and have carefully examined what purports to be a signature across the face of said photograph. The signature appears on said photograph. The said order blank was not in use in the factory in April, 1913. It has long since been out of use. The particular order blank in question, to wit 1018 was used long prior to April 1913. At the time Becker severed his connection with the National Pencil Company Schiff gave directions that all of the papers left in Becker's department be carried into the basement of the factory and left there, and it was done as ordered.

HARRY E. MORGAN, HENRY SCHNEIDER, G. GARBLEMAN, GUSTAVUS AZZARA, Sworn for the Movant. We are acquainted with Henry F. Becker. Some of his associates are Wm.Reibold, Richard Zest, Frederick Simpson. His character and reputation are good and he is worthy of belief in any court.

H. G. SCHIFF, R. W. LOEB, EULA FLOWERS, Sworn for the movant. We are personally acquainted with H.F.Becker. He is a

man of good moral character and credibility and we would believe him on oath in a court of law.

H. G. SCHIFF, N. V. DARLEY, Sworn for the Movant. On April 26, 1913, we were connected with the National Pencil Company as assistant superintendent and head foreman respectively. We now act as superintendent and head foreman respectively. We are familiar with the order blanks in said factory and make this affidavit with respect to the four books attached, marked 1, 2, 3 and 4. Book #1 is an ordinary pad such as is in use at the present time at the factory, and was in use on April 26, 1913. It consists of alternate white and yellow sheets, the white sheet being the original and the other sheet being carbon copies, the practice being to insert a piece of carbon sheet between the white and yellow sheet at the time of writing the order. Books 2, 3 and 4 are order pad books similar to book 1 with the exception that they have already been used, whereas book 1 is new and unused, that is to say books 2, 3 and 4 have had orders written in them and torn out. The figures on the date line, commencing "Atlanta, Ga." are figures representing the date of the orders as made. The figures on the line commencing with the "order number" represent the order of the number as made and the writing below is, in each case, the order itself, that is to say a specification of the goods ordered. The initials found on the yellow sheets are those of the persons making the order <sup>for</sup> the National Pencil Company. The books 2, 3 and 4 represent a period extending from March 12, 1913 to April 29, 1913.

(Accompanying this affidavit were four books, marked 1, 2, 3, 4, No. 1 being a new, unused book of order blanks, with white and yellow sheets alternating. The date line on said order blanks are as follows: "Atlanta, Ga. \_\_\_\_\_, 191" Books Nos. 2, 3 and 4 are used books containing yellow sheets on which are written in carbon, the order number, the name of the concern from whom the goods are ordered, the date, and also the goods ordered. In book #1 the order numbers are from 1446 to 1492 inclusive, the dates of these orders being March 3, 1913 to April 3, 1913. Book No. 2 contains order numbers 1493 to 1541 inclusive, the dates of said orders being from April 4, to April 29th, 1913. Book No. 3 contains order numbers 1542 to 1587 inclusive, the dates being from April 30, 1913, to May 27, 1913. Each order blank has the following initial on it: "L.M.F." Below is a duplicate of one of the orders contained in the above books.

**National Pencil Co.**

37 AND 39 SOUTH FORSYTH ST.

*Ward Trunk Co*

Atlanta, Ga.,

*3/12*

191

**PUT THIS ORDER NUMBER ON YOUR BILL**

Bell Phone Main 171

*Rush*

Order No

*1446*

*2 balls 3A Drill*

*1 ball Cheese Cloth*

*same as before*



GROUND 15.

IVY JONES, Sworn for the Movant. On April 26, 1913, I left my work at 1:30 P.M. and went at once to the corner of Forsyth and Hunter Street into a saloon at that corner, where I had a glass of beer. While in the saloon I did not meet anyone that I knew. I remained there only long enough to drink my glass of beer. I then left the saloon, walked up Forsyth to Mitchell Street, out Mitchell Street to Davis. I was not joined by anyone and did not meet anyone until I reached Davis Street, where I met Budd Perry. I did not meet anyone else except Bud Perry and we walked to my home No. *8* Electric Avenue. We then went to a ball game, but not together. I did not meet any other man I knew while on my way with

Bud Perry, and I did not meet anyone at home that day that I know other than Bud Perry. *attested by CW Burke as Notary.*

GROUND 16.

HELEN FERGUSON, Sworn for the Movant. I was employed at the National Pencil Company. I knew Mr. Frank very well when I saw him. I also knew Mary Phagan for about a year. I never heard Mr. Frank address Mary Phagan by her name, and I never saw him talking to her in any friendly manner. During my employment at the factory, I never saw Mr. Frank drinking with women in his office. On the Saturday preceding the murder, I was on the second floor of the factory and Jim Conley said to me "Help yourself, take all the boxes you want". I was stooping over at the time Conley addressed me and he kept getting closer to me and made a motion as though he intended to grab hold of me, I was very much frightened, and ran away as fast as possible. I will always believe that the said Jim Conley intended to grab me and I was very much afraid of him.

~~XXXXXXXXXX~~ MRS. CORA L. LEFFEW, Sworn for the Movant. I was present in the metal room at the National Pencil Company's factory on Monday, April 28th, 1913, when some strands of hair were found on a certain lathe and which were sought to be identified as the hair of Mary Phagan. I was well acquainted with Mary Phagan and with the color of her hair. The hair before mentioned was not the hair of Mary Phagan. It was entirely too light in color. Among those present at the time were Mrs. Georgia Denham, R.P. Barrett, Cora Falta, Marjorie McCord and Jimmie Mayfield.

MARJORIE MCGORD, MARY PIRK, Sworn for the Movant. We were well acquainted with Cora Lavander Leffew. Her character for truth and veracity is good and we would believe her on oath in a court of law.

GROUND 17.

J. E. DUFFY, Sworn for the Movant. I was a witness in the trial of the case of the State of Georgia vs. Leo M. Frank, charged with the murder of Mary Phagan. I was an employee at the factory of the National Pencil Company during a part of the year

1912, and while at work there I was injured on the index finger of my left hand, being at work at a machine on the second floor of the building in the metal department. When I received this injury there was a vast amount of blood ran on the floor at the end of the machine upon which ~~myself~~<sup>I</sup> was at work and the machine referred to was directly opposite the one upon which Mary Phagan was employed. I knew Mary Phagan when I saw her and during my employment at the National Pencil Company's factory, I have at various times seen bloody guards such as are used by women during their menstrual periods, discarded in a trash can which was sitting between the machine used by Mary Phagan and the dressing room on the second floor and right at the corner of the polishing room. At Newt Gamer's request I called at Mr. Dorsey's office. I did very little talking to Mr. Dorsey, except to answer his questions, and Mr. Dorsey finally told me that Lemmie Quinn and a boy named Charlie had testified in the case to the effect that at the time I hurt my hand that I stopped in front of the dressing room with my hand extended, allowing the blood to drip upon the floor, and Mr. Dorsey said to me, "Now, Mr. Duffy, you know that is not true, and you know that you were not in front of the dressing room at all and that there was no blood that run upon the floor, and that as soon as you injured your finger you promptly staunched it with something." and Mr. Dorsey asked me what it was that I used to stop the blood and I replied that I had applied a piece of waste to the wound. For some reason I permitted Mr. Dorsey to both ask and answer all his questions for me and I could see precisely how Mr. Dorsey wanted me to testify and ~~that~~ I did testify as suggested by Mr. Dorsey. After mature deliberation and thought, it is quite plain to me that I was made to express myself on the witness stand in a manner that I would not have given expression to had I been permitted to have gone on the witness stand and testify to the facts as I knew and remembered them. I now say that when my hand was injured blood did run from my finger on some of the metal and tin, which surrounded the machine which I was working upon, and upon the floor to the end or to the side of the machine referred to. During my conversation with Mr. Dorsey, the Solicitor in his leading way, insisted that I had immediately gone to the office of Mr. Frank as soon as I had been wounded and

then went directly to the Atlanta Hospital where Dr. Ballinger waited on me. It was very possible, and quite probable, ~~and quite~~ that blood dripped from my wounded hand upon the floor as I was passing the aforesaid dressing room, and I am not willing to state that blood did not drip from his hand to the floor in front of the dressing room already referred to. I was paid \$7.60 for two days attendance in court by the Solicitor.

GROUND 18.

MRS. M. JAFFE, Sworn for the Movant. I have known Leo M. Frank for about three and one half years. I knew him first at No. 305 So. Pryor Street where he boarded before his marriage and where I also boarded. Since the time I first met Mr. Frank I have known him continuously and have often seen and talked to him on the streets in Atlanta, and at the place of business of Mr. Jaffe and other places, and I was well acquainted with him on April 26, 1913. On April 26, 1913, I left my husband's place of business at No. 74 Whitehall Street, either at one o'clock P.M. or a few minutes prior thereto, and I came directly therefrom to the drug store of Brown & Allen at the corner of Whitehall and Alabama Streets. Just about five minutes past one o'clock on the afternoon of April 26, 1913, I left this drug store and as I did so I recognized Mr. Leo M. Frank who was standing in front of Jacob's Pharmacy on the opposite corner of Alabama and Whitehall Streets, looking towards Whitehall Street. I did not speak to him at the time inasmuch as he was not looking directly toward me at the time I recognized him, I do not know whether he saw or recognized me or not, but my belief is he did not inasmuch as I and Mr. Frank are well acquainted and he would have spoken to me had he seen me. At the time of the trial in July and August, 1913, I had no knowledge whatever of the fact that, my having seen Leo M. Frank at Whitehall and Alabama Streets five minutes past one o'clock on the afternoon of April 26th, 1913, would be material in his case and for that reason I did not tell Leo M. Frank or his attorneys of the fact, and it was not until after the trial of Leo M. Frank that I told his attorneys of the fact, the exact time I told them I am unable to state. I am willing to come to Atlanta and testify



to all of the facts contained in this affidavit, and to any other facts in her knowledge which may be material. Among my associates in Atlanta, Georgia, while I resided there were Mr. and Mrs. Greenblatt, Judge and Mrs. Fred Powers, Dr. and Mrs. B. Wildauer, Mr. and Mrs. J. Saul, Mr. J. Saul, and my physicians, Dr. Manget and Dr. Sommerfield.

F. M. POWERS, J. D. MANGET, Sworn for the Movant. We are acquainted with Mrs. M. Jaffe. Her character and reputation are good and Mrs. Jaffe is worthy of belief and we would believe her on oath.

L. Z. ROSSER, R. R. ARNOLD, MORRIS BRANDON, H. J. HAAS, Sworn for the Movant. We were counsel for Leo M. Frank in the above stated case, in his trial at the July Term, 1913, of the Fulton Superior Court. We were his sole counsel during said trial and up to the time of the preparation of the original motion for new trial, at which time Leonard Haas was joined as counsel, but Leonard Haas had no connection with the original trial and preparation of the case, and had no connection therewith until the beginning of the preparation of the original motion for new trial. The defendant, Leo M. Frank, immediately after the crime was discovered, was placed under arrest and from said time until the date of his trial, and after his trial, was kept either in the City Police Station or in the Fulton County Jail. By reason of this incarceration the said Frank could aid his counsel in the preparation of his case only by constant consultation and advice with them. He had no opportunity, himself, to examine witnesses or to search for evidence which would aid him in his cause. By reason of his confinement, the preparation for the trial of the case, the examination and discovery of witnesses was left entirely in the hands of Frank's counsel there and then. Frank was not well known in Atlanta, except among his own people, and, without the small circle of friends from such people, he had but few friends in the city, and he, while living in the City of Atlanta, devoted himself assiduously to his business, and he was, to all intents and purposes a stranger in the City of Atlanta, without any general influence in the community, and without any powerful friends to aid him in

seeking information with reference to his case and in looking up and discovering such witnesses as might be of advantage to him. The atrocity of the crime, immediately upon its discovery, created great excitement and intense bitterness. Upon suspicion being pointed to Frank, he immediately became the center of many sensational stories and of intense and widespread bitterness. The public press, spurred on by the wide interest in the case, published almost daily, wild sensational stories painting the atrocity of the crime. Numberless wild and incredible stories were published about Frank, linking him with crimes in Atlanta and elsewhere. Among other things, it was published broadcast in the public prints that he had been married before coming to Atlanta, that he had been a criminal in Brooklyn, and that, since his residence in Atlanta, had made a habit of corrupt practices, such as would and did visit upon him widespread contempt and hatred. So wide-spread were these rumors, not only through the public prints but by word of mouth, as to the atrocity of the crime, as to facts and circumstances claimed to connect Frank therewith and of Frank's habitual perversion, that practically the whole community absorbed the idea that Frank was guilty of this crime; and, if not guilty of this crime, that he was a pervert, for whose safety there need be no particular care.

When the trial began, it was apparent that intense prejudice against Frank was widely spread among the people, and that he had but few sympathizers or friends. False rumors as to the crime's atrocity, as to Frank's connection with it, and to his lack of character, had embittered practically the whole public against him; and he went into the trial of this case in the face of this public prejudice and bitterness. The court house was crowded with men and women, the great majority of whom were bitterly prejudiced against him and who intensely desired his conviction. During much of the trial, great crowds surrounded the court house, practically all of whom were bitterly antagonistic to Frank. So bitter and unreasonable was this crowd, that when the verdict was rendered, they indulged in a great demonstration of delight at Frank's conviction. The conditions surrounding the trial, from

its beginning to its inception, is accurately set out in the original motion for new trial, and certified to by the Judge. At times, when the presiding Judge would decide against the defendant the crowd would make demonstrations of approval. As illustrating the conditions surrounding the trial of Frank, and of the prejudice and bias in the public mind against him, we attach hereto, as exhibit A, grounds sixty five, sixty six and seventy five of the original motion for new trial, certified to by the presiding Judge. The facts alleged in this exhibit are true as therein stated, and are here sworn to by these deponents for the purpose of illustrating and showing the public prejudice and bias against Frank before and during the trial. The public prejudice was so great against Frank that it was with the greatest difficulty that any information could be obtained with reference to any facts or circumstances surrounding the crime which would be beneficial to Frank. Witnesses who had such information would either avoid giving information or give it only upon condition that they should not be called as witnesses and that their names should not in any way be associated with the case. Minola McKnight, one of the witnesses for Frank, had been arrested and placed in the station house, because she would not give such a statement as met the approbation of the detectives, and was kept in confinement until she gave a false statement. This incident was given the widest publicity by the press and had the inevitable tendency to prevent people from making any statements in his favor, or giving any information that would be beneficial to his case.

As soon as <sup>we</sup> were employed, <sup>we</sup> began at once an earnest, active and laborious investigation into all the facts and circumstances of the case. <sup>we</sup> They met with the greatest difficulty in obtaining information, even when such information was in the keeping of people being interviewed. From the time of the employment of counsel, as aforesaid, up to the date of the trial, <sup>we</sup> they gave almost continuous, laborious and earnest effort to discover everything which could throw any light upon the facts and circumstances surrounding the trial and showing who was the real perpetrator of the crime. Not only so, but we employed assistants to aid us in discovering every fact and circumstance that might throw light

upon the crime and its perpetrator. These assistants gave their time to it for weeks and months, under the guidance and direction of ~~themselves~~ us, and each of these reports was investigated and verified in an effort to bring to light every fact and circumstance connected with the crime. We, in person, conferred with every person of whom we had any knowledge was in any condition to know the circumstances surrounding Frank's life before and after he reached Atlanta, the facts and circumstances of the crime and any facts or circumstances throwing light upon whom was the perpetrator of the crime.

Prior to the trial and until after the original motion for new trial was overruled, we did not know Mary Rich and had never seen her. We did not know before the trial and until after the original motion for new trial was overruled that Mary Rich would testify that she knew Jim Conley; that on April 26, 1913, at about 2:15 P.M. she saw Jim Conley come out of the alley immediately in the rear of the National Pencil Factory; that Jim Conley came to where she was running a lunch stand on wheels and ~~having~~ bought a twenty cent dinner from her and after purchasing said dinner carried same in his hand and went back in said alley in the direction of the pencil factory.

We had tried persistently to determine and develop Conley's movements on the day of the murder, but were unable to discover the existence of anyone who knew the facts testified to by Mary Rich.

We did not know at the date of the trial, and did not know until the motion ~~was~~ <sup>for</sup> new trial was overruled; that, on the note written on the yellow carbon order blank, about eight lines from the bottom of the sheet there was the faint scrawl of H.F. Becker, sought to be erased but which is discernible under a microscope; and that, also, on said note, is the date September, 1909, sought to be erased but which is discernible under a microscope, together with the serial number 1018; that said sheet was a duplicate of a requisition sent to the Cotton States Belting & Supply Company, in September, 1909, by said H.F. Becker, who was Master Mechanic at the National Pencil Company at that time, and whose business it was to secure and obtain supplies for the National Pencil Com-

pany at that time, and whose business it was to secure and obtain supplies for the National Pencil Company; that it was his practice to write out the requisition, sign it with his name and send it by an apprentice to the place where he desired to secure the supplies; that it was the practice and custom of said Becker to sign the requisition, send the original to the place where he secured supplies and retain a carbon duplicate thereof in his own office on the fourth floor of the pencil factory; that the said duplicate requisitions were contained in pads which remained in his own office on the fourth floor of the Pencil Factory from the time Becker first entered the employ of the National Pencil Company to January 1, 1912; that he was allowed to obtain supplies without the sanction or authority of anyone else in the factory; his department being entirely independent from other departments and the requisition being sent out through his office without passing through anyone else; that it was his practice to keep his pads of duplicate requisitions in his office and after having no other use for same, to send them down the basement of the factory, with other trash; that the serial number in said note, namely, 1018, corresponds to the serial number of a requisition made on the Cotton States Belting & Supply Company, by said Becker, in 1909, the preceding serial numbers being 1016 and 1017, being dated September 10, 1909, and serial number 1019, the one immediately following the sheet on which Conby wrote, being dated October 6, 1909.

We had heard before the trial, that certain strands of hair were found on a lathe on the second floor of the National Pencil Factory, in the metal room; these strands of hair we never saw. Our recollection is that when the hair was asked for during the trial it was reported by the Solicitor that it was lost. Our information is that the Solicitor, and his assistants say, that the hair is lost and can not be found. When it was lost these deponents do not know, but we do know that they have never had any opportunity to see the hair itself; nor did we know that there was in existence or had been obtained off of the head of Mary Phagan hair, with which the hair could be compared that was found on the lathe.

We did make an extensive inquiry among the employees of the factory, seeking information about this alleged hair, and the

only information we were able to get was that one Barrett had found some hair upon the lathe, but we learned of no one who was willing to say whether the hair found was that of Mary Phagan or not. We had no opportunity to make any comparison between the hair found on the lathe and the hair of Mary Phagan, and we did not know that Doctor Harris, when he made the autopsy had taken some of the hair from Mary Phagan's head and that he had made a microscopical ~~examination~~ comparison between the hair found on the lathe and that taken from Mary Phagan's head, nor did <sup>we</sup> they know at the date of the trial, nor at the date of the overruling of the motion for a new trial, that Dr. Harris had taken any of the hair from the head of Mary Phagan or that he had made a comparison between the hair found on the lathe and Mary Phagan's; nor did we know at either of the times aforesaid, that Dr. Harris had reported to the Solicitor that the hair found on the lathe differed from the hair of Mary Phagan in shape, color and texture; nor did we know at either of the times aforesaid that upon reporting to the Solicitor General that the hair on the lathe differed in color and texture and shape from the hair of Mary Phagan; that the Solicitor had then told Dr. Harris that he would let the investigation of the hair end there.

We did not know that Dr. Harris had made a postmortem examination of the body of Mary Phagan. We knew this fact by hearsay only. We were not notified in advance that the autopsy was to be held, nor were we asked to participate either ourselves or by an agent in that autopsy. Prior to the trial the result of Dr. Harris' autopsy was concealed, but we ~~gave~~ sought to learn just what Dr. Harris had discovered but were not able to do so. We

never had any intimation, by hearsay or otherwise, that any hair from the head of Mary Phagan had been obtained as a result of the autopsy and that a scientific examination of the hair had been made showing that the hair found by the lathe differed from the hair of Mary Phagan in color, shape and texture. The first intimation we had of these facts was after the original motion for a new trial had been overruled by the Supreme Court.

Dr. Harris was a witness at the trial and testified as to the autopsy; testifying as to the examination of the stomach

and other organs of Mary Phagan, but made no statement at all with reference to the taking of the hair of Mary Phagan from her head during the autopsy, and examining it in comparison with the hair found on the lathe in the metal room. Dr. Harris was upon the stand twice, an interval being had in his examination by reason of his sickness, and at neither time while on the stand did Dr. Harris intimate that he had made any examination of this hair. While on the stand he was asked what part of Mary Phagan's body he examined, and he answered in a way misleading to us.

Prior to the trial Dr. Harris had been approached by Mr. Oscar Pappenheimer, a friend of Leo Frank, and was asked what he, Dr. Harris, learned as a result of the examination of the body of Mary Phagan. At first Dr. Harris declined to state, but finally said "I may say this much to you, Mr. Pappenheimer, that what I found during the examination was of no importance whatsoever, and need give you no bother."

During the trial and before Dr. Harris had finished his testimony, L. Z. Rosser and R. R. Arnold, called upon Dr. Harris and urged him to tell just what he did discover from the autopsy of the body of Mary Phagan, and just what facts he knew about which he was willing to testify. Dr. Harris declined to give this information, stating that he had promised the Solicitor to keep the matter a secret. We urged him to frankly tell us all he knew, stating that he was a public official of the State, that he had been employed by the County and paid with the money of all the tax payers of the county, and that under the circumstances he could not afford to conceal anything. This argument had no influence with Dr. Harris. He declined to give us any information, but he did state that he would state fully and frankly all he knew when he was on the stand. Thereafter Dr. Harris went upon the stand again. He was asked just what part of Mary Phagan's body he examined. He evaded the answer leaving the impression upon us that he examined only the organs testified about. He never mentioned an examination of the hair, nor was there any intimation during the trial that any examination of the hair had been had. We had no information of any hair, or any of the facts herein stated until after the motion for a new

trial had been overruled and after the case was affirmed by the supreme Court. With reference to the hair found upon the lathe, we made inquiry, extensive inquiries of employees of the factory as to any information they had with reference to this hair found on the lathe.

We had no information, nor did we know, that Miss Jimmie Mayfield had ever been shown the hair, which Barrett claimed to have taken from the lathe. The information that it had been shown to her came to us after the trial, and after motion for a new trial had been overruled. This witness, Miss Jimmie Mayfield, was not a witness at the trial, and at the date of motion for a new trial we had no knowledge that she had ever seen the hair on the lathe so as to make a comparison with the hair of Mary Phagan.

We did not know at the date of the trial, nor after the motion for a new trial was overruled and after the case was carried to the Supreme Court that Mrs. Cora Falta had seen the hair upon the lathe that had been found by Barrett, and that she knew and would swear that the hair found upon the lathe was not the hair of Mary Phagan. This witness, Mrs. Cora Falta was not a witness at the trial and we had no information, until after the dates aforesaid, that she had any knowledge about the hair said to have been found by Barrett, and that she knew and would testify that it was not the hair of Mary Phagan.

We did not know ~~the~~ Alice Marjorie McGord, nor did we know that she had ever seen the hair claimed to have been found by Barrett upon the lathe, nor did they know that she, having seen the hair, would testify that it was not the hair of Mary Phagan. This Alice Marjorie McGord was not a witness in the trial of the case, and ~~therefore we had not the slightest information, or~~ we had not the slightest information, or suspicion that she had ever seen the hair and knew that it was not Mary Phagan's.

We also claim that we did not know and we had no knowledge, until motion for a new trial had been overruled and the case was affirmed by the Supreme Court that Albert McKnight had admitted ~~anything~~ testifying falsely as to seeing Leo M. Frank in the dining room of his father-in-law, Mr. Selig's home, on April 26, 1913; nor



did we know or have any knowledge that McKnight admitted that he falsely swore as to the other facts, which he now admits that he did falsely swear to, set out in his affidavit shown to the court at the hearing and submitted to the court in verification of the extraordinary motion for a new trial.

McKnight was a witness for the State at the jury trial and testified as he now admits, falsely, "that he looked in the mirror from the kitchen and saw Frank in the dining room of his father-in-law's home" and that "he did not eat any dinner" that "he went to the sideboard of the dining room, stood there a few minutes and went out and caught a car" and that he "did not stay in the house more than five or ten minutes". The falsity of this testimony was unknown to us until after the time aforesaid.

We further claim that we did not know on the date of the trial ~~that Mrs. Miller~~, nor until after the motion for a new trial had been overruled, that Mrs. Ethel Harris Miller and Maier Lefkoff would testify as set out in paragraph seven of the Extraordinary motion for new trial; nor did we know until after the time, as aforesaid, that they saw Leo M. Frank between 1 o'clock and 1:10 o'clock of the 26th day of April, 1913, at the corner of Whitehall and Alabama Streets. Neither of us knew Mrs. Miller and had no intimation that she knew or was in a position to know the things she testifies about. We had made every effort in our power to discover any parties who did see Frank without the factory between 1 o'clock and 1:30 o'clock; had inquired of every source that we thought profitable and had obtained at the times as aforesaid no information about Mrs. Miller.

Miss Dewey Hewell was a non-resident of the City of Atlanta at the date the crime was committed and was residing in Cincinnati, Ohio. A messenger of the State was sent to Ohio to bring Miss Hewell to the trial and such messenger did bring her to the trial; neither of us, nor anyone representing us, had any opportunity to confer with Miss Hewell to determine to what she would testify. Upon her testifying she was carried back to Ohio and has since been in Ohio. No opportunity was given us to confer with Miss Hewell while she was in Atlanta before or after her testimony. We did not know at the date of the trial nor until the case

had been affirmed by the Supreme Court that in truth Miss Hewell did not know Mary Phagan, and did not see or hear Leo M. Frank speak to Mary Phagan; that she had never seen the defendant and Mary Phagan together, and that she knew the facts, and would testify to the facts set out in her affidavit to the court shown at the hearing. We did not know until after the trial and after the motion for a new trial had been overruled, that Miss Ruth Robertson would testify as is set out in her affidavit to the court shown at the hearing. We did not know that she would be a witness at the trial, had no opportunity to confer with her, no facts, or set of facts, had come to us which would lead us to suspect that she would testify as she has testified in said affidavit.

We had no knowledge at the time of the trial, nor until after the motion for new trial had been overruled and the case affirmed by the Supreme Court that Miss Marie Karst knew and would testify to the facts as set out in her affidavit here to the court shown, dated April 9, 1914, and we did not know at said time that Leo M. Frank was acquainted with this lady or that she had any knowledge of the things testified to by her in said affidavit.

~~Neither of us knew during the trial before the jury nor at the time the motion for a new trial was overruled and not~~

We did not know at the date of the trial, nor since the said date until the Frank case had been affirmed by the Supreme Court that C.B. Dalton would testify as set out in his affidavit here to the court shown, dated March 3, 1914.

We had never heard of C.B. Dalton until the witnesses were called at the trial. We made diligent effort to discover who he was during the trial, but failed to do so, and we did not know who Dalton was until he was called and sworn as a witness, nor did we know that he would testify as he had in said affidavit to the court shown at the hearing, until after the case had been affirmed by the Supreme Court. We sought to get into communication with Dalton so as to test the accuracy of his statements, but we failed to do so until the date of said affidavit.

We did not know during the trial, nor until the motion for a new trial was overruled that Ivy Jones would testify as is set out in his affidavit here to the court shown, dated Feb. 6, 1914.

Jones was a witness for the State and testified at the trial that he saw Jim Conley at the corner of Forsyth Street between one and two o'clock and he left him at the corner of Hunter and Davis Streets a little after two o'clock. We did not know that he would testify to the contrary and that he would testify as is stated in his affidavit.

We did not know, nor did we have any opportunity of knowing, until after the date of the trial, of Leo M. Frank and after the date of the ~~reversal~~<sup>affirmance</sup> of same by Supreme Court that Helen Ferguson would testify as is set out in her affidavit here to the court shown, dated April 9, 1914. Helen Ferguson was a witness for the State during the trial but at no time in her testimony did she intimate the things set out in her affidavit, nor did ~~these~~ we know that she knew the things set out in said affidavit.

We did not know during the trial, nor until the motion for a new trial had been overruled, that J. E. Duffy would testify as he has testified in his affidavit hereto the court shown, dated April 18, 1914. Said Duffy was a witness for the State at the original trial and was cross-questioned at length by one of us, and we did not know, nor did we have any reason to suppose that the facts existed as set out in his affidavit to the Court shown at the hearing.

At the date of the trial we did not know that Mrs. M. Jaffe would testify <sup>that</sup> on the date of the crime, April 26, 1913, she saw Leo M. Frank at the corner of Whitehall and Alabama Streets, Jacob's corner at 1:05 o'clock P.M. We had made strenuous efforts to obtain ~~by~~ the names of every one who would testify to seeing Frank out of the factory from four minutes to one o'clock until half past one o'clock and until the trial had ended, nor did we have any intimation that Mrs. Jaffe did see Frank, and would testify to the same. Mrs. Jaffe, long after the crime, did state to one of us that she had seen Frank as above stated, and upon inquiry as to why she did not let it be known, said that her husband persuaded her not to furnish this information to Frank's attorneys for the reason that the feeling against Frank was so strong he was afraid that it would injure him in business.

We did not know during the trial nor until after the motion for the new trial had been overruled that Mrs. Mamie Edmunds (formerly Mamie Kitchens) would testify as she has testified in her affidavit here to the court shown, dated April 13, 1914. Mamie Kitchens was a witness for the State at the original trial and was cross-questioned at length by one of ~~the~~ us and we did not know, nor did we have any reason to suppose that the facts existed as set out in her affidavit to the court shown at the hearing.

(Exhibit A, attached to said affidavit is as follows)

"EXHIBIT "A"

Ground 65. (a) On August 6, 1913, during the trial, the defendant's counsel, moved to rule out the testimony of the witness Conley tending to show acts of perversion and acts of immorality, on the part of the defendant, wholly disconnected with and dis-associated from this crime. The Court declined to rule out said testimony and, immediately upon the statement of the court that he would let such testimony remain in evidence before the jury, there was instant, pronounced and continuous applause throughout the court room where the trial was being had, by clapping of hands and by striking of feet upon the floor.

While the jury was not then in the same room where the trial was being had, they were in a room about fifty feet from where the Judge was sitting and about twenty feet from portions of the crowd applauding, and so close that perhaps the jury could have heard the applauding.

(b) And again, during the trial, Mr. Arnold, one of the counsel for the defendant, in the presence of the jury, objected to a question asked by the Solicitor, and the following colloquy took place:

Mr. Arnold: I object to that your Honor, that is entering the orders on that book merely; that is not the question he is asking now at all.

The Court: What is the question he is asking now?  
(Referring to questions asked by Solicitor-General.)

Mr. Arnold: He is asking how long it took to do all this work connected with it. (Referring to work done by Frank that day of the murder.)

The Court: Well, he knows what he is asking him.  
(Referring to the Solicitor General.)

Upon this suggestion of the Court that the Solicitor knew what he was doing, the spectators in the court room applauded by striking their hands together and by striking their feet upon the floor, creating a demonstration. Defendant's counsel complained of the conduct of the spectators in the court room. The Court gave no relief, excepting directing the Sheriff to find out whom was making the noise.

(c) During the examination by Mr. Arnold, counsel for the defendant, of V.H. Kriegshaber, a witness for the defendant, there was laughter in the audience sufficiently generally distributed throughout the audience, and loud enough, to interfere with the examination. Mr. Arnold called the court's attention to the interruption for the purpose of obtaining some action from the court thereon.

The Court stated that, if there was other disorder, no one would be permitted in the court room the following day, and requested the sheriff to maintain order.

(d) That during the trial, on Friday, August, 22<sup>n</sup>, 1913, when the court had adjourned for the day, and the jury was about 300 feet away from the court house, proceeding north on Pryor Street

as Mr. Dorsey, the Solicitor General, was leaving the court room a large crowd assembled in front of the court-house, and, in the hearing of the jury, cheered and shouted "Hurrah for Dorsey".

(e) That during the trial, on Saturday, August 23, 1913, when Court adjourned and Mr. Dorsey emerged from the court room, a large crowd, standing on the street, applauded and cheered him, shouting "Hurrah for Dorsey". At that time the jury was between the court house and what is known as the German Cafe, and near enough to the crowd to hear the cheering and shouting. A portion of the crowd moved up in front of the cafe, at which the jury were at lunch, and, in the hearing of the jury, shouted "Hurrah for Dorsey."

(f) On the last day of the trial, Monday, August 25, 1913, a large crowd, including many women, had assembled in the court room before court had opened, taking up every seat in the court room. The jury were in their room about twenty feet from the court room and as Mr. Dorsey entered the room, the crowd applauded loudly by clapping of hands and stamping of feet, which the jury perhaps could have heard. The court did nothing but admonish the people that if the applause was repeated, he would clear the court room.

(g) On Monday, the last day of the trial, after the argument of counsel had been had and the charge of the court had been given, and the case was in the hands of the jury, when Solicitor Dorsey left the court room a very large crowd awaited him in front of the court house and shouted and applauded by clapping their hands and shouting "Hurrah for Dorsey".

(h) When it was announced that the jury had agreed upon a verdict, the Judge of the Superior Court, his Honor, L.S. Roan, went to the court house, which was a comparatively small room on the second floor, at the junction of Hunter and Pryor Streets, and found the court room packed with spectators. Fearful of misconduct among the spectators in the court room, the Court of his own ~~motion~~ motion, cleared the room before the jury announced their verdict. When the verdict of guilty was rendered, the fact of the rendition of such verdict was signalled to the crowd on the outside, which consisted of a large concourse and crowd of people standing upon Hunter and Pryor Streets. Immediately upon receiving such signal, and while the court was engaged in polling the jury, and before the polling ended, great shouts arose from the people on the outside, expressing gratification. Great applauding, shouting and halloing was heard on the streets, and so great became the noise on the streets, that the court had difficulty in hearing the responses of the jurors as he polled them. These incidents showed as the defendant contends, that the defendant did not have a fair and impartial jury trial, and that the demonstrations of the crowd attending court was such as to inevitably affect the jury.

Ground 66. The court room wherein this trial was had was situated at the corner of Hunter and Pryor Streets. There are a number of windows on the Pryor Street side looking out upon the street and furnishing easy access to any noises that would occur upon the street. The court room itself is situated on Hunter St. 15 or 20 feet from Pryor Street. There is an open alleyway running from Pryor Street along by the side of the court house and there are windows from the court room looking onto this alley, and any noise in the alley can easily be heard in the court room. When Solicitor Dorsey left the court room on the last day of the trial, after the case had been submitted to the jury, a large and boisterous crowd of several hundred people was standing in the street in front of the court house and as he came out greeted him with loud and boisterous applause, taking him upon their shoulders and carrying him across the street into the Kiser Building, wherein he had his office. This crowd did not wholly disperse during the interval between the giving of the case to the jury and the time when the jury reached its verdict, but during the whole of such time a large crowd was gathered at the junction of Pryor and Hunter Streets. When it was announced that the jury had reached its verdict, his Honor, Judge L.S. Roan, went to the court room and found it crowded with spectators to such an extent as to interfere with the court's orderly procedure, and fearing misconduct in the court room, his Honor cleared it of spectators. The jury was then brought in for the purpose of delivering their verdict. When the verdict of guilty was announced, a signal was given to the crowd to that effect. The large crowd of people standing on the outside cheered and shouted and hurrahs at the outset of the poll of the

jury, and before more than one juror had been polled, to such an extent ~~was~~ that the court had some difficulty in proceeding with the poll of the jury, which was then in progress and not finished. Indeed so great was the noise and confusion without that the court heard the responses of the jury during the polling with some difficulty. The Court was about ten feet from the jury. In the court room, was the jury, lawyers, newspaper men and officers of the court, and among them there was no disorder.

GROUND 75. Public sentiment seemed to the Court to be against him. The court room was a small room, and during the argument of the case, so far as the Court could see, about every seat in the court room was taken, in and without the bar, and the aisles at each end of the court room were packed with spectators. The jury, in going from the jury seats to the jury room, during the session of the court, and in going to and from the court room, morning, evening and noon, were dependent upon passage ways made for them by the officers of court. The bar of the court room itself was crowded, leaving only a small space to be occupied by counsel in their argument to the jury. The jury box, when occupied by the jury, was enclosed by the crowd sitting and standing in such close proximity thereto that the whispers of the crowd could be heard during a part of the trial. When the Court's attention was called to this, he ordered the Sheriff to move the crowd back and this was done.

During the argument of the Solicitor, Mr. Arnold of counsel for the defense, made an objection to the argument of the Solicitor and the crowd laughed at him, and Mr. Arnold appealed to the Court.

On Saturday, prior to the rendition of the verdict on Monday, the Court was considering whether or not he should go on with the trial during Saturday evening, or to what hour he should extend it in the evening, the excitement in and without the court room was so apparent as to cause apprehension in the mind of the Court as to whether he should safely continue the trial during Saturday afternoon; and, in making up his mind about the wisdom of thus continuing the trial, his Honor conferred with, while on the stand, and in the presence of the jury, the Chief of Police of Atlanta, and the colonel of the Fifth Georgia Regiment stationed in Atlanta conferred with his Honor. Not only so, but the public press, apprehending trouble if the case continued Saturday, united in a request to the court that he not continue the court on Saturday evening. The court, being thus advised, felt it unwise to extend the case on Saturday evening and continued it until Monday morning. It was evident on Monday morning that public excitement had not subsided, and that it was as intense as on Saturday previous. The same excited crowds were present, and the court house was in the same crowded condition. When the Solicitor entered the court room he was met with applause by the large crowd—ladies and gentlemen present—by stamping their feet and clapping their hands while the jury was in their room about twenty feet away.

While Mr. Arnold, of the defense, was making a motion for a mistrial, and while taking testimony to support it before the Court, the crowd applauded when the witness testified that he did not think the jury heard the applause of the crowd on Friday of the trial. The jury was not in the court room, but were in the jury room about 20 feet away.

When the jury was finally charged by the Court, and the case submitted to them, and when Mr. Dorsey left the court room, a large crowd on the outside of the court house, and in the streets cheered by yelling and clapping their hands, and yelling "Hurrah for Dorsey".

When it was announced that the jury had agreed upon a verdict, crowds had thronged the court room to such an extent that the court felt bound to clear the court room before receiving the verdict. This the Court did. But, when the verdict of the jury was rendered, a large crowd had thronged the outside of the court house someone signalled to the outside what the verdict was, and the crowd on the outside raised a mighty shout of approval. So great was the shouting and applause on the outside that the court had some difficulty in hearing the response of the jurors as he called them.

The defendant was not in the court room when the verdict was rendered, his presence having been waived by his counsel. This waiver was accepted and acquiesced in by the Court, because of the fear of violence that might be done the defendant were he in court

when the verdict was rendered.

When Mr. Dorsey left the court room, he was met at the court house door by a multitude, was hurrahed, cheered, taken upon the shoulders of a part of the crowd and carried partly to the building opposite, wherein he had his office."

MORRIS BRANDON, Sworn for the Movant. I did not take part in the actual trial of said case, and therefore know nothing of what transpired at the trial. I did not have actual charge of the preparation of the case, therefore I can not say what occurred at the court house during the trial, except from hearsay, but I have read the foregoing affidavit, and believe the same states the facts correctly. I make affidavit to all the facts stated in the foregoing affidavit, except as here modified.

LEONARD HAAS, Sworn for the Movant. I was not of counsel for Leo M. Frank during his trial in the Superior Court of Fulton County, Georgia. I was first retained as counsel during the first week in November, 1913.

*LEO M. FRANK, sworn for movant. in affidavit attested by Geo Burke as Notary*  
On Monday, April 28th, 1913, I was taken in charge by the Police Officers of the City of Atlanta, Georgia, and taken to the Station House, where I made a statement to the Chief of Detectives and upon said statement being made I was released. I remained released for that day and night until early April 29th, 1913, when I was taken into custody. Continuously from that day up to and including the present time, I have been confined in the Station House in the City of Atlanta, or in Fulton County Jail, and during all of said time I have had no opportunity of doing anything for myself in the way of discovering witnesses in my behalf or making any investigation into the facts and circumstances surrounding the murder of Mary Phagan. During the whole time I have been forced to depend upon the investigation and integrity of my counsel and friends, without being able to give them any of my personal aid.

*know*  
I did not, except from hearsay, that there had ever been any exhumation and examination of Mary Phagan's body. I had heard rumors that Dr. H. F. Harris had examined the body and made an examination of certain parts of the body, but this was purely hearsay and I had no opportunity at any time to determine whether

such hearsay statement was or not the truth.

I did not see the hair that was claimed to be found on the lathe by one Barrett. I understood that Barrett had found certain hair upon the lathe, but I never had the opportunity of examination or to see it, or did ~~he~~<sup>9</sup> ever have any opportunity to see and know whether it was or was not similar to the hair of Mary Phagan. I did not know until after my trial and after my case had been affirmed by the Supreme Court, that Dr. Harris had in fact taken hair from the head of Mary Phagan and examined it in connection and in comparison with the hair claimed to have been found upon the lathe by Barrett. Nor did I, until after the trial know that Dr. Harris had examined any of the organs of Mary Phagan, except upon hearsay, as stated above. I did not know until my case had been affirmed by the Supreme Court that Dr. Harris had ever made any microscopic examination, or any other examination of Mary Phagan's hair in comparison with the hair claimed to have been found upon the lathe. I heard Dr. Harris's examination before the jury, and his cross-examination by my counsel, but I never understood from the examination of Dr. Harris, or any other source, that Dr. Harris had ever examined the hair of Mary Phagan. Nor did I then, or did I ever know until my case had been affirmed by the Supreme Court that Dr. Harris had told the Solicitor that the hair upon the lathe was different from the hair of Mary Phagan in color, shape and texture, and thereupon Dorsey said, "we'll let the hair matter rest." I understood, from inquiry, made during the trial, that the Solicitor General claimed that the hair found upon the lathe was lost. I remember distinctly inquiry was made as to where the hair was, and my recollection is that the statement was made that it was lost. I did not know that anyone had made a comparison of the hair claimed to have been found by Barrett on the lathe with the hair of Mary Phagan, or that the hair had been submitted to anyone as to whether or not the found hair looked like the hair of Mary Phagan. The first intimation I had that there had been any comparison of the two hair was obtained while one of the witnesses for the State was on the stand, when she swore that the hair claimed to have been found upon the lathe by Barrett looked like the hair of Mary Phagan. I did not then know, nor until my



case had been affirmed by the Supreme Court that any other party, or parties, had opportunity to examine the hair found by Barrett and to say whether or not it resembled the hair of Mary Phagan.

I did not know that Miss Jimmie Mayfield, nor that Miss Cora Falta, nor that Miss Alice Marjorie McCird had ever examined or seen the hair claimed to have been found by Barrett, or that they had any knowledge as to whether the hair so found was the hair of Mary Phagan. The first intimation I ever had that ~~she~~<sup>these</sup> three witnesses knew anything about the hair found by Barrett or anything about whether a comparison of that hair shown that it was the hair of Mary Phagan, I learned after my motion for new trial trial had been overruled and the Supreme Court of Georgia had affirmed such overruling.

I knew nothing about the fact that Albert McKnight had repudiated his story about seeing me at the home of my father-in-law about 1:30 o'clock P.M. on April 26, 1913, until after my case had been affirmed by the Supreme Court. I had never had any opportunity to talk with McKnight and did not know until the trial that he would testify falsely against me; nor did I have any opportunity to see ~~me~~ him after the trial on account of my confinement. I had no knowledge that McKnight would testify as he did in his affidavit to the Court shown at the hearing.

I did not know until after my trial before the jury and after my motion for new trial had been overruled and carried to the Supreme Court that Mrs. Ethel Harris Miller and Maier Lefkoff would testify as they had in their affidavit to the court shown at the hearing. I did not know or remember that Mrs. Miller saw and spoke to me while standing at the corner of Whitehall and Alabama Streets between the hours of 1 and 1:10 P.M. on April 26, 1913. There was no pretense that I was engaged with Conley in concealing the body from four minutes to 1 o'clock to 1:30 o'clock P.M. on April 26, 1913 until in the very midst of the trial Conley testified that he and I were concealing the body from four minutes to 1 o'clock until 1:30. Until the very midst of the trial, therefore the importance of this time had not occurred to me, and I had not sought to remember who I met between those times. After Conley's testimony, and after it was found to be important for me

to account for myself between these two times, I did my best to remember who I saw between those times and do as best I could I could not remember that I had spoken to Mrs. Miller at the time, nor do I remember with certainty now her speaking to me as testified to by her in her affidavit. Mrs. Miller is a woman of veracity and character and I feel sure that she did see me and that if the matter had become important immediately after the crime I could and would have remembered the fact.

I did not remember at the trial, nor until after my motion for new trial had been overruled that I had seen either Mrs. Miller or Maier Lefkoff at the time and place indicated.

~~I knew nothing about what Dewey Hewell would testify~~ at the trial. I had never in my life had any conversation with Miss Hewell. I was incarcerated and could not communicate with her and could not know ~~what~~ she would testify at the trial. After the trial, Dewey Hewell was carried back to Ohio, and has been there since said date, and I did not know and could not know what Miss Hewell would testify at the trial; and I did not know and could not have known from that date until after my motion for new trial was made, and until after her affidavit dated February 25, 1914, that Miss Hewell did know and would testify to the facts as set out in said affidavit.

I did not know, nor could I have known until after the dates of the affidavits made by Miss Ruth Robertson and Miss Marie Karst dated April 4, 1914, that Miss Robertson and Miss Karst would testify as set out in their affidavits to the court shown at the hearing. I had no opportunity to confer with Miss Robertson and Miss Karst before the trial, nor during the trial, nor did I have any opportunity to confer with them or either of them, after the trial. The first intimation that they would testify as they did in said affidavits was after the date of said affidavits.

I did not know, nor did I have any reason to know, until my case was affirmed by the Supreme Court that Mary Rich knew and would testify that on April 26, 1913 at about 2:15 o'clock P.M. she saw Jim Conley come out of the alley immediately in the rear of the National Pencil Factory, that said Jim Conley bought a twenty cent dinner from Mary Rich, who runs a restaurant on wheels, and

after purchasing said dinner he turned, carrying the dinner in his hand, toward the Pencil Factory and that said Mary Rich saw no more of Jim Conley during that day.

I did not know C. Burtus Dalton, and had never seen him until he was placed on the stand. I had no idea that said Dalton would or could be a witness against me, I knew I had never seen Dalton and had never had anything directly or indirectly to do with him. I have not seen said Dalton since he testified, nor have I had any opportunity to see him. I am advised and believe that said Dalton left the State of Georgia after testifying and is now at some place in Florida. I did not know or suspect that said Dalton would testify to the facts and things set out in his affidavit, dated March 3, 1914, until after the date of said affidavit.

I did not know that upon the yellow carbon order blank ~~wh~~ whereon appeared one of the notes written by Conley, the name of H. F. Becker could be seen by a microscope. I could not see the name by the use of my eyes and I had no microscope, nor did I know that the date of "Sept. 9, 1909" was discernible under a microscope; nor did I know that said yellow copy order blank was the duplicate carbon order blank of a requisition on the Cotton States Belting & Supply Co. of September, 9, 1909 made by said H. F. Becker. I did know that this yellow carbon order blank was not one used by ~~him~~ me, but that it was an old blank used by Becker during his time, and made such statement to the jury, but ~~that~~ I did not know I could confirm these statement to the jury by the facts above outlined. The existence of said facts did not come to my knowledge, I not having the use of a microscope as aforesaid and not knowing that a microscope was necessary until after my motion for new trial had been overruled and my case carried to the Supreme Court.

I did not know the negro Ivy Jones, and did not know what he would testify to when he was introduced by the State. I had no reason to suppose that Ivey Jones would change his statement and did not know that he had changed his statement, and that he would testify as is set out in his affidavit, dated February 6, 1914, to the court shown at the hearing, until after the date of said affidavit.

I knew Helen Ferguson and knew what she testified for the

State upon the trial, but I did know at the time of the trial or until after the date of Helen Ferguson's affidavit, dated April 9, 1914 to the Court shown at the hearing, that she would testify to the things in said affidavit set out. I did not know until then that Conley had had the conversation with Helen Ferguson set out in her said affidavit.

I had no opportunity myself to know what J. E. Duffy would testify to on the trial nor did I have any opportunity to discover whether or not Duffy would add to or vary the testimony rendered on the trial. I did not know or have any opportunity of knowing that the said Duffy would testify to the facts as set out in his affidavit dated April 18, 1914, to the Court shown at the hearing.

I did not know on the trial and until after the motion for new trial was overruled that Mrs. M. Jaffe saw me on April 26, 1913 at the corner of Whitehall and Alabama Streets at Jacobs' corner at 1:05 o'clock P.M. There was a considerable crowd upon the streets that day and I have no recollection of seeing Mrs. Jaffe, indeed the importance of remembering whom I saw while I was at the corner of Whitehall and Alabama Streets at the time and the day stated did not originate so far as I know until during the trial when Conley ~~was~~ testified that he was with me concealing Mary Phagan's body between four minutes to o'clock and 1:30 P.M. on that day.

I know Mrs. Mamie Edmunds, formerly Mamie Kitchens, was a witness for the State upon the trial, but I did not know at the time of the trial or until after the date of the affidavit of Mrs. Mamie Edmunds which said affidavit is dated April 13, 1914, to the Court shown at the hearing, that she would testify to the things in said affidavit set forth.

1ST AMENDMENT TO MOTION FOR NEW TRIAL.

J. W. BOOZER, Sworn for the Movant. In April, 1913, and for several months prior thereto I was employed as a collector for Patrick & Thompson, Jewelers, on South Broad Street, this city. While collecting for Patrick & Thompson, one of my accounts was an account against Jim Conley, the negro who is now in jail, as being connected with the Mary Phagan murder.

For several weeks prior to April, 1913, Mr. Leo M. Frank paid me a dollar a week out of Jim Conley's pay on account for a watch purchased by Conley from Patrick & Thompson. I collected a dollar in this manner on March 8, 1913, March 15, 1913, March 22, 1913, March 29, 1913, April 5, 1913, and April 19, 1913. On April 26, 1913, I was unable to get to the Pencil Factory by one thirty o'clock in the afternoon, it being customary for me to go to the Pencil Factory by that time each Saturday to get the dollar and I did not call at the factory that day. On the afternoon of April 26, 1913, after four o'clock in the afternoon, as near as I can recollect, about four fifteen (4:15) o'clock and certainly somewhere between four o'clock and four thirty (4:30) o'clock, on Saturday afternoon, April 26, 1913, I came upon and met up with Jim Conley on Peters Street, near Castleberry Street. I know Jim Conley well and that Jim Conley was, on the afternoon of April 26, 1913, between four and four thirty o'clock on said Peters Street, and when I came upon him, the said Jim Conley was standing leaning against a pole, and then and there I and the said Jim Conley spoke to each other and had a brief conversation. I asked Jim Conley for his weekly payment of a dollar on his watch, and then Jim Conley told me that I could get the money that Mr. Frank had for me, and Jim Conley asked me whether or not I had been by the factory for the dollar. When I told Conley that I had not, Conley merely said that he could get the money from Mr. Frank. I did not tell these facts to anyone at the time, nor immediately after the news of the Mary Phagan death, but during the month of July, to the best of my recollection I did tell these facts to Solicitor Dorsey, but I did not tell any of the lawyers of Leo M. Frank, nor so far as I know, were these facts ever communicated to them before the date of this affidavit. My associates are G.W. Patrick, E.B. Durham and J.H. Hilley.

G.W. PATRICK, E.B. DURHAM, J.H. HILLEY, Sworn for the Movant.

We are acquainted with J.W. Boozer, and know that he has lived in Atlanta and been in and about Atlanta for the past twelve months and longer. He is a man of good character and credibility and we would believe him upon oath.

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L.Z.ROSSER, MORRIS BRANDON, R. R. ARNOLD, HERBERT J.

HAAS, LEONARD HAAS, Sworn for the Movant. We did not, at the date of the trial, nor until after the Supreme Court had affirmed the case of Leo M. Frank have any knowledge of the fact that J.W. Boozer knew and would testify that Jim Conley was on Peters Street in the City of Atlanta, on the 26th day of April, 1913, between the hours of four and four thirty o'clock. We (except Morris Brandon, who did not have active control of the case, and whose firm was represented by L.Z. Rosser) made active search to trace Conley during each hour of the day of April 26, 1913, and did not, until the date of the affidavit of said Boozer find anyone who would testify to seeing Conley at that date. Neither of us had any knowledge until the date of the affidavit of said Boozer, to-wit, April 17, 1914, that the said Boozer knew and would testify to the facts set up in the affidavit of said date.

LEO M. FRANK, Sworn for the Movant. I did not, at the time of the trial, nor until after the Supreme Court had affirmed my case, have any knowledge of the fact that J.W. Boozer knew and would testify that Jim Conley was on Peters Street, in the City of Atlanta, on the 26th day of April, 1913, between the hours of four and four thirty o'clock. I made active search to trace the movements of said Jim Conley during each hour of the day of April 26, 1913, and did not until the affidavit of said Boozer find anyone who would testify to seeing Conley at that date. Neither did I have any knowledge that the said Boozer knew and would testify to the facts set up in his affidavit made on the 17th day of April, 1914. *attested by C.W. Burke as Notary.*

2ND AMENDMENT TO MOTION FOR NEW TRIAL.

MRS. MAUD BAILEY, Sworn for the Movant. On Saturday, April 26, 1913, I was living at 253 Humphries Street. At eleven o'clock A.M., or a very few moments after that time I boarded a Stewart Avenue car and left the car at Forsyth and Mitchell Streets. My mother, Mrs. May Barrett was with me, and after leaving the car we both walked together to the store of Alverson Brothers, located on Forsyth Street and near Mitchell Street, which time I think was about eleven thirty o'clock A.M. when we reached Alverson's store, and my

mother left me at the store to go to the pencil factory, promising to come right back; and after waiting at the store for about ten minutes, I decided to walk toward the pencil factory to meet my mother; and, upon arriving at the factory, inasmuch as I did not meet my mother, I entered the factory and went to the second floor near the time clocks, one of which registered fifteen minutes until twelve o'clock, noon, and the other one showed thirteen minutes after twelve o'clock. When I reached a point opposite the time clocks, there was present Leo M. Frank, a lady stenographer, or at least a lady was sitting at the typewriter, Corinthia Hall, Emma Clarke Freeman, Arthur White and Mrs. Arthur White. Emma Clarke Freeman asked Mr. Frank if she could use the 'phone, whereupon Mr. Frank told her that she could use the 'phone, and after a short talk on the 'phone, Mrs. Freeman and Miss Hall left the factory, and

I did not see them any more that day. Just after Mrs. Freeman and Miss Hall left the factory, and while Arthur White and his wife were standing at the foot of the steps leading up to the third floor from the second floor, where they were in conversation, my mother came down the steps referred to, and when she saw me standing near the time clocks, my mother said "I thought I left you at Alverson's store, and I replied that I was tired of waiting and told my mother to hurry and go out with me; and my mother told me that she had to go back to the fourth floor to get a package, and would be back as quickly as possible. I and my mother talked for several minutes and when I and my mother finished talking, my mother went up the stairs, Arthur White also went up the same stairway, and Mrs. White left the factory. When I was again left alone, I noticed that the lady that I had supposed was the stenographer was gone, and I did not see her any more, and I think she must have left the factory while I was talking with my mother. At about ten or twelve minutes after twelve o'clock, noon, I saw a young girl come up the stairs and walk into Mr. Frank's office, and I paid very little attention to the girl's face, and after remaining in Mr. Frank's office some three or four minutes, the girl went out of Mr. Frank's office and passed on down the stairway that lead to the first floor. The girl had on an attractive dress which I think was between a pink and lavender color and that the dress was short and the girl was evidently young and she was heavily built. The

passed right on down the stairway that lead to the first floor and I did not see the girl again. Just as the girl left the office floor, I saw Mr. Frank in the outer room of his office and saw him disappear into his private office, where I could not and did not see him again. In about five minutes after the girl referred to left the factory, my mother came down the stairs and she and I at once left the factory. When I reached the bottom of the stairs, Lemmie Quinn was going up the stairs very fast, and I said "howdy" to Mr. Quinn and Mr. Quinn nodded but did not speak. I and my mother then went to Alverson's store to use their 'phone and to call Mr. W.B. Newcomb, who works at the Swift Soap Works, which was then between twenty five and thirty minutes after twelve o'clock, noon, when I reached the store. The reason for knowing that it was about that time being because the Swift Soap Works do not permit their employees to use the 'phone after twelve thirty o'clock and I know that I was just in time because I had only a moment or two to talk to Mr. Newcomb. When I entered the Pencil Factory that day, Jim Conley was sitting on a box between the stairway and the elevator, on the first floor. I would not have noticed Conley, but for the fact that he made a noise with his foot against the box upon which he was sitting, which attracted my attention and caused me to look up and see him. I have made an affidavit to Mr. Hugh Dorsey and if Mr. Dorsey had treated me properly and had not abused me and cut me off my story and interrupted me continuously, I would have told him exactly the same state of facts that I have outlined and described in this affidavit. I wanted to tell Mr. Dorsey all I knew that might throw light on the investigation that he was conducting but Mr. Dorsey wanted to get from me evidence of conditions that were not the facts, on account of which I got mad with Mr. Dorsey and his methods. It was very evident that Mr. Dorsey became angry with me, the result being that he took only a short affidavit from me and Mr. Dorsey had me so confused at the time that I cannot at this time recall just what Mr. Dorsey put in the affidavit which he took from me, and I left his office and have not seen him since.

MRS. MAY BARRETT, Sworn for the Movant. I have read the affidavit of my daughter, Mrs. Maud Bailey, sworn to and subscribed before J.O. Knight, a Notary Public, for Fulton County,



Georgia, on April 22, 1914, and in each part of Mrs. Bailey's affidavit where in reference is made to me, same is the truth and in every way correct.

L.Z. ROSSER, MORRIS BRANDON, REUBEN R. ARNOLD, HERBERT J. HAAS, LEONARD HAAS, Sworn for the Movant. We are the counsel and the only counsel of Leo M. Frank in the case above stated. All of us were counsel of Leo M. Frank at his trial, at the July Term, 1913, of Fulton Superior Court, except Leonard Haas, said Leonard Haas ~~being~~ having become connected with the case after the motion for new trial was filed. We had no knowledge at the time of the trial or at the time it was overruled, of the testimony of Mrs. Maude Bailey as set forth in her affidavit in this case, or of the testimony of Mrs. May Barrett as set forth in her affidavit in this case. Each of us exercised diligence in ascertaining all the facts in connection with Leo Frank's defense, and at no time was any suggestion made to the effect that Mrs. Maude Bailey or Mrs. May Barrett would swear as set forth in said affidavits. Said testimony is important and material and is newly discovered.

LEO M. FRANK, Sworn for the Movant. Neither at my original trial, nor at the time of making my original motion for new trial, nor at the time the same was overruled, did I have any knowledge of the facts testified to by Mrs. Maude Bailey or Mrs. May Barrett, as set forth in their affidavits made in this case. From Tuesday, April 29, 1913, I have been in ~~prison~~ prison and have been unable to rely upon others to go ~~the~~ out and investigate the evidence of my case, and have been compelled to rely upon others to do the work for me. I exercised all possible diligence under the circumstances, to ascertain all facts which throw any light upon the truth of the charge against me, but had no knowledge of the facts testified to in these affidavits.

( 3RD AMENDMENT TO MOTION FOR NEW TRIAL STRICKEN ON MOVANT'S MOTION.)

4TH AMENDMENT TO MOTION FOR NEW TRIAL.

ANNIE MAUDE CARTER, Sworn for the Movant. I was locked up in the Fulton County Jail about October 7, 1913. I first met Jim Conley in the Court House in November, 1913, at the time I was sentenced to jail. After I was sentenced I was well acquainted with Conley and

knew him well for four months straight in jail. I talked daily with him about all his affairs and I asked him if he was guilty or not, and he first told me no, that he was innocent; that God above alone knows who did the murder, and I said if you were not guilty, why should you worry so, and he told me he was so near guilty, he felt lost; that he had lost all hope. During December, 1913, we were very good friends in jail, he had all confidence in me, he would tell me his secrets and of course I would listen. He again told me he didn't know anything about Mary Phagan's murder and then I told him if that was so, he ought to prove up his character, so during Christmas week I was talking with him in his cell and he said he would tell me the whole truth about it. I asked him why he waited so long. He said: "If I tell you will you marry me" and I told him yes. He then told me that he really did the murder of Mary Phagan, but that it was so plainly shown on Mr. Frank that he let it go that way; that him and Mr. Frank both had connection with the girl, but then he immediately confessed that he lied, when he said that Mr. Frank had connection with the girl; and said that he had done it all alone by himself. He begged me never to say anything about this. He said he first choked her and after she was unconscious he had connection with her, and she being young and never having had anybody, he had to tear her privates. He said he was sitting on a box in the factory when the girl came down, that he told her someone had called her, that she turned back and he then struck her with his fist, knocking her down and dragged her back where they put rubbers on pencils; that finding Mr. Frank absent, he dropped her through the hole; that he then took her around by the furnace starting to put her in the furnace but his conscience wouldn't let him; that he put her down there to make people believe Newt Lee did it; that afterwards he found a piece of blank paper, tears it in two, picks up a pencil, and puts the paper on the cellar door and writes the notes; that he first took the notes and put them in her bosom, then he took them out and laid them by her side. That he then took a thing they use to open boxes with and pulled the staple out of the back door, and went out the door, going over on Broad Street to get a glass of beer; that he went back to the factory to make people believe that he was innocent, but that the truth must come to light; that he wanted to save Mr. Frank by saying he helped move the body but that

he knew that ~~he~~ would not work; that afterwards he went and got drunk, went home and started to leave town, but that he knew that that wouldn't do, so he stayed here to show that he wasn't guilty. He begged me not to say anything about this, that he wanted to serve his twelve months so that he would be free; that if he couldn't get me he would go north and marry some white woman around Cincinnati. He also told me that he kept the money but gave the purse to a negro child. While I was in his company, he asked me to be with him and I told him No, that's what got him in jail there. He asked me that twice in my presence. He asked me that several times in letters he wrote me but I simply sent the letters back to him not caring to be in his company any more. He wrote me that he had a big hard thing waiting for me and that I had a big, fat ass, and he wanted to get it down to natural size. I have not got the letters, I give them back to him. I have not told this before, because I only got out of jail March 9, 1914. Detectives Lanford, Chewning and Sturdevant took a statement from me today. I did not tell them all that I am telling here because I knew that they were trying to get things to favor Conley and I knew that he was guilty, and that what I knew wouldn't help him but would break his neck. Chief Lanford also asked me if Conley used his mouth on me and I did not say anything. As to how I come to make this statement when I was down to the station house today and the detective asked me all those questions I knew what they were trying to do, they were trying to help Conley, so I went right from the station house to Mr. Jake Jacobs on Decatur Street and told him everything that had happened and he then told me I ought to make a statement about it and that is how I come to make this statement.

JULIA CARTER, Sworn for the Movant. I am the mother of Annie Maude Carter. Annie Maude Carter is 21 years of age and lived with me up to one year ago. Annie Maude Carter is of good character and attended private school at Atlanta up to the time she was 16 years of age. She has been working as a laundress and house cleaner, and I would believe her on oath in a court of law. I now work as a nurse at Dr. Cromer's at No. 240 Peachtree Place and I am 45 years of age. I worked at Mr. Walter Ballard's family for 27 years up to 10 years ago. I was with Annie at the jail the day Conley was sentenced and Annie said when someone came back and told of Conley's

getting 12 months sentence, that Jim was doing a lot of talking and that if he didn't stop talking so much, he was going to talk his neck on the gallows. This morning somebody come after me to go to Mr. Dorsey's office. I went there and he told me that I must remember that Annie's case hadn't been settled yet and he said that the best thing I could do for Annie and myself was to bring Annie down there to him. I told him I didn't know where she was and all I could do would be to ask the layers in the 4th National Bank Building where she was and I said I thought I would go over and ask them where she was, and he said there wasn't no need in the world to ask them. On last Thursday I met Annie on Decatur Street and she said she just came from the station house and said they wanted her to tell about some of Conley's letters and she said that she didn't tell them anything. She said she was going up to the Fourth National Bank Building on some business. She left me at the corner of Peachtree and Decatur Streets. Nobody was with her when I met her and nobody was with her when she left me. I signed a paper in Mr. Dorsey's office. I can't read and I can't write, but they read the paper over to me and I put my mark to it. The paper said that I hadn't seen Annie since Thursday when I met her on Decatur, and also asked me if Annie had some things in a pawn-shop on Decatur Street, and I said yes, but I didn't know what it was.

J. JACOBS, Sworn for the Movant. I am acquainted with Annie Maude Carter. She is a woman of good character and credibility and I would believe her on oath.

LEO M. FRANK, Sworn for the Movant. The facts set out and sworn to in Exhibit A, hereto attached, <sup>(Carter affidavit)</sup> were unknown to me at the time of my trial before the jury in Fulton County, Georgia, and were unknown to me until the date of Exhibit A. I did not know the facts and circumstances set out in Exhibit A until the date of said Exhibit A and could not possibly have known the same by the exercise of any manner of diligence.

L. Z. ROSSER, R. R. ARNOLD, LEONARD HAAS, HERBERT J. HAAS, MORRIS BRANDON, Sworn for the Movant. We did not, at the date of the trial, nor until after the Supreme Court had affirmed the case of Leo M. Frank, have any knowledge of the facts and circumstances set out in Exhibit A, hereto attached. We, (except Morris Brandon, who did not have active control of the case, and whose firm was represented by L. Z. Rosser) made diligent search to find out all about the

connection of James Conley with the murder of Mary Phagan, and neither of us had any knowledge of any of the facts and circumstances set out in Exhibit A, hereto attached, at the date of the trial of Leo M. Frank, nor until the date of Exhibit A, hereto attached. We knew nothing of the facts set out in Exhibit A, hereto attached nor could we possibly have known the same by the exercise of any manner of diligence. *(Exhibit A referred to was re a. m. Carter affidavit)*

5TH ALIENDMENT TO MOTION FOR NEW TRIAL.

(GROUND 1-a) MRS. GEORGIA DENHAM, Sworn for the Movant. I was employed at the plant of the National Pencil Company on Forsyth Street, Atlanta, Georgia, during ~~the~~ April and May, 1913, and on a certain day which I believe was Thursday, May 1, st 1913, which was the day upon which James Conley was arrested in connection with the murder of Mary Phagan, I saw Conley in the metal room of said pencil company washing a shirt. I saw said shirt plainly and on same there was a large sport which looked to me like blood, the same about the size of a person's hand. I asked Conley what it was and Conley said that it was blood, that his nose had bled when he had bumped his head. And the said Conley attempted to demonstrate to me how the blood from his nose had gotten around on top of his shoulder. I related the above facts to the detectives who were then working on the case and my affidavit was taken by them. Some of my associates are Miss Mary Pirk, Jimmie Mayfield and Annie Howell.

MARY PIRK, JIMMIE MAYFIELD, ANNIE HOWELL, Sworn for the Movant. We are acquainted with Mrs. Georgia Denham and know her character, Her character for truth and veracity is good and we would believe her on oath in a court of law.

(GROUND 1-b) CORA L. LAFFEY, Sworn for the Movant. I was present in the metal room at the National Pencil Company's plant on Monday, April 28th, 1913, when some strands of hair were found upon a certain lathe, and which were sought to be identified as the hair of Mary Phagan, deceased. I was well acquainted with the deceased Mary Phagan, and with the color of her hair, and the hair above mentioned was not the hair of Mary Phagan. It was entirely too light in color to have been from the head of the deceased. Amongst

those present t the time were Mrs.Georgia Denham,R.P.Barrett, Cora Flata, Marjorie McCord, Miss Jimmie Mayfield.

GROUND 1-c. GEORGIA DENHAM, Sworn for the Movant. I was present in the metal room at the National Pencil Company's plant on Monday April 28th,1913, when some strands of hair were found upon a certain lathe, and which were sought to be identified as the hair of Mary Phagan,deceased. I was well acquainted with the deceased Mary Phagan, and with the color of her hair, and the hair above mentioned ~~were~~ not the hair of Mary Phagan. It was entirely too light in color to have been from the head of the deceased Mary Phagan. Mary Phagan's hair was of an auburn hue, while that found on the lathe was more blonde. Among those present/<sup>at the time</sup>were Mrs. Cora Lavender, R.P.Barrett, Cora Falta, Marjorie McCord, Miss Jimmie Mayfield. Some of my associates are Miss Mary Pirk, Miss Jimmie Mayfield, and Annie Howell.

GROUND 1-d) ANNIE MAUDE CARTER, Sworn for the Movant. I was put in jail in Atlanta, about six months, beginning October 7,1913, until March 9,1914. I was bound over to the Tower on the 7th day of October,1913, and given fifteen years on the 15th of October, 1913. Then I got a new trial on the 7th day of March, and I made bond on the 9th day of March, and I had a trial on next Monday, March 16th. The court costs were paid, and that settled it. It was \$42.05. I paid the nolle proesse fees amounting to \$42.05. During the time I was in jail, there was a man/<sup>there</sup>named James Conley. I met him in the court house at the time of my first trial. I saw him often in the jail. His cell was the first north and mine was the third West. I worked for the Sheriff on the run-around. I did the laundry. I saw James Conley every day. I got very friendly with him. I got friendly enough with him for him to ask me to marry him. I received letters from him. I got letters from him for this reason: I went to his cell and was talking to him from the corridor and the sheriff's cook told them that I was there talking to him, and the sheriff had given orders not to let anybody in there talking to him except his attorneys,so they gave orders for me to be locked up for talking to him,so that is how I came to be getting letters. I was locked up. I got the letters from him during the week that I was locked up. I couldn't count the number of letters I got. At one o'clock, I could go downstairs while they were moving the sign and talk to him, while the men were out, and when I couldn't go

down, I would write him notes, and he would write me; but he went beyond himself in writing to me and I brought them back to him and asked him for my letters. I would lay them down and go downstairs for something and I would come back and they would be gone, and in two or three days, I would find them lying around in a peculiar place. I don't know whether any of these letters were dated. I didn't pay that much attention to them. He would write six or seven pages in one letter, and as high as ten pages. These twenty seven sheets written in lead pencil are some of the letters received by me and were taken out of my cell. They were written by James Conley and are in his handwriting. Two of these letters he handed me himself. All of the letters are in his handwriting. I received these letters when I was in the jail in Atlanta at the same time that Conley was there. I wrote these letters consisting of twenty two separate pages to Conley. These twenty two separate pages are in my handwriting. They are letters that I wrote to Conley while in the Fulton County Jail in Atlanta. Some of them are dated. One of them, I believe is dated January, 16th. Some of them are undated. I got my letters to Conley by giving them to different men, who were serving sentences in jail. They were short term prisoners. I didn't deliver any of the letters to Conley through any of the deputy sheriffs, only through the prisoners. I would receive two or three letters a day from Conley, and I would write him every two or three days. I received other letters from Conley about as many as you have shown me. I don't know what became of them. I am marking in red ink the letters which Conley wrote to me, and in red ink the letters which I wrote to Conley. This is the absolute truth. Nobody has promised me anything to make this statement. Nobody has threatened me. I have lived in Atlanta twenty one years. My associates are Mary Lou Wright, Viola Bare and Annie Grogan.

(Attached to the affidavit of Annie Maude Carter were the following letters:

Letter 1.

My dear little girl:

I got letter and feel alright now and is not made with you at all now, and I believe what you say about old Jim since I read your mother's letter, and I still love you and will always love you, but I must not have a wife that will tell people to kiss her ass.

Well, I will forgive you all about that now, and let us see how much we can love each other, Baby Doll. I love you more than your Mother do I believe, and I wish I that I was there to tell you how much that I love you, don't you Honey? Baby, you ought not never said anything to me about your hippe, why my dick went clean across my cell, and I read it all night, your letter, I could not sleep. Honey, you was right when you said that you had up there what I wants. You know then that I would not be mad with you, when you said you could make me call you mama, well Baby, if you do, Papa will give you what it takes to bring the bacon home, and I like to hear you said that because I always believed you could do it, and believe you could make me love it, and if you do, I will try to give you anything in the world, if I have to go and take something, cause you have got to have it Honey. That made me love you that much more, you said you would hold from the bottom, why Baby I know you can do that. I just know that and every time read that my long dick get on a hard, why I would like to hold it in one of your hippe this morning, and let you take everything that I have got there with me, because I love you so much and if I could put my sweet long dick in your hippe, I think I could make Mama call me Papa, one time. Honey could I get you not to get out on hond. Baby, I am afraid that you will give it a way before you can make Papa call you Mama. Baby, I will marry you, but I dont no about in there. I love you enough to, but you know they will talk about it. Well that all rright Honey, don't worry, I will do just what I say I would, for I am pleased with you very much and think we could be happy, But I would like to wait til we get out of there, for I love you so much. Now, dear tell I will do now, when we get out and that not long, two weeks now, you be a godd little girl for I am going to call you my girl and a little later I am going to call you my wife and give you whatever you wants, that is if you dont spent what I have got too fast off. I will do all I can in this world for you because I love you and knows that I can take care of you because I have many friends to not take care of you, and all of them are white friends. Now little girl, you ought to see how long my dick has got since I read your letter and it has got just as pretty as I can be, and it is years. Be good now, let me hear from you. I would write more but Frink is hurrying me up, so by by, from

(Signed) Jamez.



Letter 2.

Now Baby Doll Papa got your letter and was very glad to hear from you, and will be glad to get your picture. Now Baby, you know we dont want to get mad any more, so you tell me now what is that, that somebody has told you a bought me. Let me know, it will be alright.

Dont hold it back because I love you so tell me know what it is. I wish I was up there when you was dressing so I could feel your ass. Baby I will give you the last 14 dollars that I have got right now if you will come down there and let me see it. Just let me look at it, and I know I will come all over myself. I have got the money right there waiting for you, if you dont believe it, come on down there and see, and if that aint enough, I am going to get some more in the morning and that if that aint enough, why just wait til I get out and papa go and get what you want for your big fat ass.

Well Baby Doll you aint got to wait much longer that is if you dont get out on no bond. I know if you get out on bond, somebody will get it before I do and they will make you call them papa before you can make me call you mama. I want you to keep your ass right there because it is good and you told me this last night in your letter, that two hours fucking on your big fat ass would stop all of this argument. Well that right but you know that Papa cannot lay on your ass that long before you would be done made me come, if ther ever was a man that want to lay on your ass that me, and make me love it and I will show you better than I can tell you what I do for you.

Now Baby if you dont get out on no bond or if you do get out on a bond you have that right hip for me cause if you hold your fat ass on the bottom and make papa go like a kitty cat then you have won a good man, that's me. I will try to give you this world, but if you let papa putchis long ugly dick up in your fat ass and play on your right and left hip, just like a monkey playing on a trapeeze, then Honey Papa will be done played hell with you. Then you will call me Papa all the time then.

Well Baby Mr. Gilliland was not there to let me know what we was talking about but I am going to do so, so dont worry now Baby. Do you really mean that you are going to get out on bond? I see that your Mother said that somebody was going to give something on your bond. Tell her that you dont wanto get out on bonds, because we are going to do what I say, cause I want to stick my long dack in your ass.

Well Honey this is alright now be a good girl and save your fat ass for me and will take care of it just as sure as I am (Blank). Give your heart to God and your ass to me for you mind. Well Baby, I just dont know what to think about your case.

Well go on and get out on bond, then pay your lawyer a little to keep it out of court, but if you dont get out on bond I dont think that they can do anything with you for you have got a good lawyer. I think you will get a new trial, so dont worry. If you dont get out on bond and dont get no new trial then go to a high court and then get a bond.

Baby, your case is not so much, you know that because the bond that they put you under is not anything. That negro man has got out on bond. You dont know if they did turn him a lose then the detectives must be trying to work it off on you. They may not dont like you.

Well I dont care if you did do it, or if you did not, I love you just the same, and if I was out you would get out too. For I would spend everything that I have got to help you and to help your Mother to get you out.

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So you ask your lawyer do he think it would be best to get outen bond.

Well Dear dont worry about a thing for Papa love you and my step mother love you, so tell my step mother I say hello, so this is all, go to sleep now, Baby Doll, Sweet Dear, bye bye.

(Signed) James Conley.

P. S. On back of page 2.

Miss Annie Carter Conley, got a fat ass and a sweet pee hole I do believe and they will be mine soon (blank) I will just want that ass, Honey.

P. S. On back of page 4.

James Conley.

Answer right away I write it tonight.

Letter 3.

Well baby, doll papa has got your letter and was glad to hear from you, - to know that you are feeling fine. Well honey you know if we do wait, why we can love each other just the same and when we get out why all that I have got to do then is to go and get what I have got put up and give it to you. Darling I know you told me to judge well. That alright Papa will do anything that you tell him but baby papa is going to let you be the boss always. You know that you want to, and I will let you have everything that I have got. So now dont worry honey. The time is not long. I am going to ask Mr. Gilliland again. He asked me did I have any money to pay the pastor and to get the thing with. I told him yes, and I told him if they would let one of my friends come to see me I could send him to get some money for me. He said I better let that stay there until I get out. Well honey I think that would be best, but if you think it would be the best wait 'til we get all right. So you be a good girl until papa can see what Mr. Gilliland will say in the morning. He say that Mr. Roberts may not be there Monday.

He say he will get them things for us if we know any pastor that we could get and get him in there before anybody see him.

Well, babay. I dont know, I will let you be the boss all the way through, and I will do whatever you say. So By By, from James, dont worry, and dont hurry, just take your time and right.

Letter 4.

Honey, I did not ask Dr. Ren to let you come up there because Mr. Billy Land is not there, but just save it for me because papa love you and is going to help you if you dont get out on bond or dont get no new trial. Now, you be a good little girl until I can get up there, or until I can get some money. I have got the money alright but how is I going to get it.

Just to show you honey that I love you if I could get it I would do all in this world for you. So dont worry now. The time is not so long now before that I can show you better than baby. I dure wish that Mr. Gilliland was there so I could come up there with you and lay in your arms.

Honey- dont you think that you will go to no prison, because you wont. I know that because I love you so much and know what I can do for you for I have it to do for you. Nowif I could get it that why I say dont worry you wont go nowhere that is if you be a good girl- I will help you. If you dont be a good girl then I wont. I have got a negro watching you. Now do like I tell you be good and dont worry.

Save it til I can come up there.

Letter 5. (1st page)

Atlanta, Ga., Jan. 26, 1914.

My Dear little girl-

I got your letter and I did not that you--- for you was playing -- your line be-- to fall in hard--. Aint that so honey I dont think that you meant for me to come up If you do I will try to come up there tomorrow So dont worry I love you just the same All that I want is a woman that can work her ass and I believe you can. So dont worry about that other--- No woman- and I dont want her I want you That is if you will be a godd little girl. "Over" on next page" Honey I will tell you what my lawyer say I have not got\_\_\_.

2nd Page.

just to fill out your line --- You have and \_\_\_ your fat ass \_\_\_ just as far up in \_\_\_ ass I can get nuts and all Now baby I am not mad with you, so dont worry Do like I do Dont worry Just a good fucking will make you feel all \_\_\_ playing cards so \_\_\_ you forget it You was not thinking that much abought me Well that is all right I thought of you so I have not got anything to say about that woman for I just knows her and that is all\_\_\_.

3rd Page.

forget to and \_\_\_ I say but that is all right I love you just the same and love nobody but you I have not told you how much I live you yet honey It would brake my heart to tell you because you would mistrest me \_\_\_ When \_\_\_ I love you so much sweet dear darling honey baby Papa want to fuck you so bad and give you a good fucking to your \_\_\_

You say that honey I am half drunk but that all right. I love you and is Not said a thing Nobody for hon ey I think you just made that up \_\_\_ I tell you you a baby. I could write more but you have hurt me to my heart to

Over (3) James.

because honey I love you so much me. I love feel now good wish you there to get \_\_\_ I am drinking. Dont worry honey. Dick and a so got to sleep now . Let me hear you say that you worry- ing any more. You good pussy little girl \_\_\_ you.

Letter 6.

Honey, readz til you come all over yourself. Well dear how are you feeling tonight. I hope you are not worry- ing at all, so go to sleep and let your good fat ass rest til I can get on it and that wont be long, baby, because we will get out all right and we will marry and live happy. Now tell your mother to look for a good house. A first class one I am not lying honey. What take to pay for that house I have got it.

What it take to make you happy and give you everthing you want and make you keep your fat ass at that four room house dam if I aint got it til and what I am talking about nobody aint going to spend it but Miss good fat ass.

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Good pussy Annie Maude all I know that your ass is fat you need not say that it aint and I know your pussie is good and fat and warm and hairy. How do I know because my dick stay on a hard all the time.

When you pass this door my dick say here she go and do you know little firl that I love you to my heart. I love you more than any man that you ever went with and how I man love you, so much is because I believe that you will make a good wife for me, and not to tell you no lie I will be good to you and will give you anything that you want to make you be good to me. I am not talking just to hear myself talk. I am talking this because I know that I can do and what I have got to do with because you know if a man get you he is got to do if he want you to treat him right, and I

Letter 7.

Now I tell you Miss Annie you dont have to write and ask me do I like that not a dam tall. I told just what I heard so you must know that whoever told me that was tell the truth. I guess I dont know and dont give a dam and if you dont want to write down there to me I dont care. But I will say this I love you all right and have loved every since we was at court together.

I am surprised at you Annie to hear you say for somebody to kiss your ass.

So far as you say that your mother told you not to eat or drink anything from Jim Well that all right I believe you are telling the truth about you dont care anything about him and I know that he is not your husband and not me but I would like to be if we were not in there for I love you and has always told you so and was just thinking me and Mr. Gilliland how to do. Of course I know that you never did love me and know that you are not crazy about marrying me for I was the one crazy about marrying you. You should know that I would like for you to have been my wife because I would have been pleased with you and knows that you have had a good time in your life and will change now and be a good girl and you and I could get along fine and be happy. But I did not know that you tell people to kiss your ass and I know that you are not no fool miss and I am not no fool. And I dont listen to everything that the boys tell me for I just told you just what I heard and did not tell you that it was the truth and I know that you dont have to tell me no lie for you are your own woman and you cannot mess me up for I love you too much and would do anything in this world for you. I love you and love you to my hear and if you dont love me I dont give a dam and you dont have to tell me to stop writing up there. Of course if you want me to then I wont. But, I will love you just the same. I have been writing some good letters up there too. To let you know how much I love you and I mean it well. I guess I will try to forget you. It will take me a long time for every time I read your letter I think that much more of you. Well that alright if you did not want me you did not have to get on your head. I wish you had wro te you smart letter a little sooner before Mr. Gilliland left. If you like this--- write. Please answer all of your letter. I would like to hear from you. I am not mad at all with you and you say somebody is telling you something around there about me.

73  
73  
Why--- nobody cant tell you anything about me for nobeddy around there knows anything wrong about me and what they do know they know I am a good man. Tell me what some of them are saying Answer Miss Smart.

Good pussy Annie Maude all I know that your ass is fat you need not say that it aint and I know your pussie is good and fat and warm and hairy. How do I know because my dick stay on a hard all the time.

When you pass this door my dick say here she go and do you know little firll that I love you to my heart. I love you more than any man that you ever went with and how I man love you so much is because I believe that you will make a good wife for me, and not to tell you no lie I will be good to you and will give you anything that you want to make you be good to me. I am not talking just to hear myself talk. I am talking this because I know that I can do and what I have got to do with because you know if a man get you he is got to do if he want you to treat him right, and I

Letter 7.

Now I tell you Miss Annie you dont have to write and ask me do I like that not a dam tall. I told just what I heard so you must know that whoever told me that was tell the truth. I guess I dont know and dont give a dam and if you dont want to write down there to me I dont care. But I will say this: I love you all right and have loved every since we was at court together.

I am surprised at you Annie to hear you say for somebody to kiss your ass.

So far as you say that your mother told you not to eat or drink anything from Jim Well that all right I believe you are telling the truth about you dont care anything about him and I know that he is not your husband and not me but I would like to be if we were not in there for I love you and has always told you so and was just thinking me and Mr. Gilliland how to do. Of course I know that you never did love me and know that you are not crazy about marrying me for I was the one crazy about marrying you. You should know that I would like for you to have been my wife because I would have been pleased with you and knows that you have had a good time in your life and will change now and be a good girl and you and I could get along fine and be happy. But I did not know that you tell people to kiss your ass and I know that you are not no fool miss and I am not no fool. And I dont listen to everything that the boys tell me for I just told you just what I heard and did not tell you that it was the truth and I know that you dont have to tell me no lie for you are your own woman and you cannot mess me up for I love you too much and would do anything in this world for you. I love you and love you to my hear and if you dont love me I dont give a dam and you dont have to tell me to stop writing up there. Of course if you want me to then I wont. But, I will love you just the same. I have been writing some good letters up there too. To let you know how much I love you and I mean it well. I guess I will try to forget you. It will take me a long time for every time I read your letter I think that much more of you. Well that alright if you did not want me you did not have to get on your head. I wish you had wro te you smart letter a little sooner before Mr. Gilliland left. If you like this--- write. Please answer all of your letter. I would like to hear from you. I am not mad at all with you and you say somebody is telling you something around there about me.

73 Why--- nobody cant tell you anything about me for nobody around there knows anything wrong about me and what they do know they know I am a good man. Tell me what some of them are saying. Answer Miss Smart.

Back of Page (2)

To Miss Smart. Answer if you like for I am not no fool either. Understand it too and I am not mad with you.

Letter 8.

Atlanta, Ga., February 14, 1914.

Miss Annie Conley, 92 Tatnall street, Ga.

Well dear I just dont know what to say. You say you are made with me and it hurts me to my heart. Did I tell you that love you and love nobody but you and I think if you go back on me I dont know what to do. So baby dont me mad with me please because I think I think that you and I will be happier some day. I know we will Annie if you will be a good little girl around there which I know you will if we ever get out of there. Because I will do all that a man can dor for you xto to make you be good for I know that you like a good time and have had a good time in your life and I believe that you will change now and do right. Sweet dear dont worry for I love you more and more. Every day that I hear something good about you and I have always believed that you will make a good wife to me or any man that will treat you tight and honey I know that I can do that and I was not trying to fool you dear. I have always loved you and will always love and if you be a good girl you will always have a good friend because I am a man that loves and will give you all that you want and that is . You know that I will. You find out I will give you want you want then you will love me more. But I tell you now dear from my heart that I can do for you a long time for I know what I have got you think that I would be in this case and not get anything out of it. All that I would like for you to do is to be a good baby and dont let nobody tell me anything on you no more I would like to you all in my arm which would make me do more for you. Because I think that you could put it where it would go to me head, dont you? and I believe that you could put it to some man and make him do right for you and I am one of them too. Because I have got it in my head that you can do it to me if you do, I will go out and bring back the money and it would not be long for I am a man that tell the truth about what I will do if I love a woman. I will do for her I say that I love you and love nobody but you and know what I can do for you. If I did not love you I would not write to you at all. That's the man that I am.

Well honey the time aint long as it have been with me and I am going to beat my case so help me God. They have got to try me in this court or turn me a lose one. So dont you worry. If I get out first I will do all I can for you if you dont get no new trial in this court, just to show you how much I love you I will help to carry it a higher court if want me too. I just as well to help you as to help someone else for some one is going to spend what I have got. Now, baby that women that you saw talking to me is not anything to me and could not give me any money, for I could give her some money like I am now. I dont want nobody to give me anything now. I just sent around to some of my friend just to see where they are at. I could give them something now and if I could get where you is I could give you what you want here. Because I think that much of you and am pleased with you. If you be a good little girl because when I hear things around there about you it go to me heart. Just like I told you that I loce you to my hear and if you do love long will it. Of course you like a good time. just like anybody else and I like a good time and what take to give you a good time, I have got it. I wish I was out there where you was are you in there with me. Now I.

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have wrote you all the paper that I have got. Now you know that I love you and will do all in this world for you. If I could get you in there I could make you love me or try like hell one. For I love you with all the love in the world. If I didn't make you love me I would by love from you if it takes every dollar I have got.

P. S. at top of page (8), Annie I spelled my words so that you can understand it. I am not writing so fine you know

"From James which is scratched.

P. S. On page (4). Now tell me something good baby doll- from James Conley.

Now I tell you Miss Annie you dont have to write and ask me do I like that. Not a dam . I told just what I heard so you must know that whoever told me that was telling the truth.

Letter 9.

Well honey how are you this time. I hope you are feeling fine for I am dear. Why do you say that I need what I have got. It is not because you cant get to send me any I would have sent you some money but you knoq that it is to hard to send my money to you of what I want to send because you are up there and I am down there. I cant tell what going. You knows that your self of course. I could send you some change Annke dear. What I want to send I want to send something that will do you some good and I would like to help you in your case all that I could. But, you have not been a good little girl so they tellme. Honey it would take me a long time to spend what I have got in my cell and if I did spend all what I have got I could get more for I have got it and if I was out there with you I could give you whatever you want because I relly love you baby and would like to let you spend some of my money because somebody is going to do it. But I will just let you do what you want to. If you want to marry right there I will or if you. So write now and let me know what a bout in there Want to wait til you get out! I will then.

So dont worry I just let you th ink but dear if you really mean what you say about it. I will do all that I can do for you and I knows what I can do for you because nobody knows I have got but me and Frank and God and Frank he cant say anything for he known where I got it from -----so. Now sweet dear you be a good little girl for my time is not long. now---So if you dont want to marry in there why I hope we will be good friends until we get out. It hard to tell about that . Have you got to wait til the last of Feb. before you be tried. Somebody told me tou did well of you have. I hope you dont let the chief cook take you away. I heard you is loving him, is that so. If it is, me and you must da something right away for I am loving you now with all the love in the world and willdo my best to make you happy.

Letter 10.

Get it down to two or three years then motion for a new trial in a still high court then get out. It dont cost much. It will be the 15th of next month before you will get a hearing from this court and that aint long. I thnk when that woman come back there I will send her to get some money for me. If she will bring it back and I will let you have some money to help you as I may get out



before the 15th of next month and if I get out I will help you all I can Annie Bear, because I love you so much-If I tell anybody where my money is they will go and get the whole dam bunch- Then I never would get it and the State may be so long paying me, then I would not know what to do then but dont you worry.

R.P.BUTLER, N.V.DARBEY, H.G.SCHIFF, EULA FLOWERS, JOE WILLIAMS, JOS.

STELKER, R.W.LOEB, L.A.QUINN, F.ZIGANKI, Sworn for the Movants.

We are acquainted with the handwriting of Jim Conley. We have examined the letters attached to Annie Maude Carter's affidavit and the same are in the handwriting of said Jim Conley.

SIG MONTAG, H. HEIN, CHARLES LEER, Sworn for the Movant. We are acquainted with R.P.Butler, H.G.Schiff, Rudolph Loeb, F.Ziganki, Jos. Stelker and Miss Eula May Flowers and know their general character for truth and veracity; the same is good and we would believe them on oath in a court of law. They work<sup>ed</sup> at the National Pencil Company during the time that Jim Conley worked there and had an opportunity to become familiar with his handwriting. All of said persons are employees of the Pencil Company and have been thus associated with each other for some time.

H. A. ALEXANDER, Seorn for the Movant. I am a practicing attorney in Atlanta, Georgia, and I have made a careful study of and am familiar with the handwriting of Jim Conley as shown in the two writings or notes found near the body of Mary Phagan, also in other specimens of his handwriting made for the police department, and particularly the note written by him for the police on an occasion when he was taken to the National Pencil Factoru by them. I am familiar with the peculiarities of Conley's handwriting, notably the unnecessary stroke which he invariably throws into the letter "s"; his unusual method of making the letter "o" by which he brings into the circle of the "o" the ending of the last stroke of the preceding letter and the beginning of the first stroke of the following letter; the uniform dropping of the letter "h" below the line; the disjoining of the last stroke in the letters "w" and "b" from the following letter when such following letter begins on the line; the use of a capital "p" and the dropping of the letter "k" below the line. I have examined the letters attached to the affidavit of Annie Maude Carter entitled and filed in the above stated case, and in my opinion said letters were unquestionably written by Jim Conley; In my examination of said letters, I find ~~that~~ identical peculiarities described above and also the same mis-spelling, for example, "wood" for "would", "hisslef" for "himself". There is not