

"The Court. On motion of State's counsel, consented to by Conley's attorney, I passed the first order, that's my recollection. Afterwards, it came up on motion of the Solicitor General, I vacated both orders, committing him to the jail and also the order, don't you understand, transferring him; that left it as though I had never made an order, that's the effect of it."

Mr. Rosser: Then the effect was that there was no order out at all? "

"The Court, No order putting him anywhere" ". Mr. Rosser: Which had the effect of putting him out?"

"The Court; Yes, that's the effect, that there was no order at all".

Mr. Dorsey (resuming) "First, there was no order committing him to the common jail of Fulton County; second, he was turned over to the custody of the police of the City of Atlanta, by an order of Judge L. S. Roan, Third, he was released from anybody's custody, and except for the determination of the police force of the City of Atlanta, he would have been a liberated man, when he stepped into this Court to swear, or he would have been spirited out of the State of Georgia, so his damaging evidence couldn't have been adduced against this man".

The Court erred in allowing the Solicitor General to make the foregoing argument, over objection, which was not authorized by the evidence, and in not rebuking and correcting the Solicitor-General, and because of such failure to act, and erroneous actions, by the Court, and because of such improper and illegal argument, movant says a new trial should be granted.

103. Because the Court erred in failing to charge the jury, in reference to the witness, Jim Conley, that if the witness willfully and knowingly swore falsely as to a material matter, his testimony ought to be disregarded entirely, unless corroborated by the circumstances, or the testimony of other unimpeached witnesses.

believed from the evidence, that Conley watched for Frank, and that his purpose in watching was to assist in the commission of the crime of sodomy by Frank upon the person of Mary Phagan, sodomy being a felony, that than, Conley as to any alleged murder