

98. Movant says that a new trial should be granted because of the following:

The Solicitor-General, in his concluding argument to the jury, spoke as follows:

If there be a negro who accuses me of a crime of which I am innocent, I tell you, and you know it's true, I'm going to confront him, even before any attorney, no matter who he is, returns from Tallulah Falls, and if not then, I will tell you just as soon as that attorney does return, I'm going to see that that negro is brought into my presence, and permitted to set forth his accusations. You make much here of the fact that you didn't know what this man Conley was going to say when he got on the stand. You could have known it, but you dared not do it.

Whereupon the following colloquy ensued:

Mr. Rosser: May it please the Court, that's an untrue statement; at that time when he proposed to go through that dirty farce, with a dirty negro, with a crowd of policemen, confronting this man, he made his first statement,—his last statement he said, and these addendas, nobody ever dreamed of them, and Frank had no chance to meet them; that's the truth. You ought to tell the truth; if a man is involved for his life; that's the truth.

Mr. Dorsey (resuming): It don't make any difference about your addendas and you may get up there just as much as you want to, but I'm going to put it right up to this jury—

Mr. Rosser: May it please the Court, have I got the right to interrupt him when he mis-states the facts?

The Court: Whenever he goes outside of the record.

Mr. Rosser: Has he got the right to comment that I haven't exercised my reasonable rights?

The Court: No, sir, not if he has done that.

Mr. Rosser: Nobody has got a right to comment on the fact that I have made a reasonable objection.

Mr. Dorsey: But I'm inside of the record, and you know it, and the jury knows it. I said, may it please your Honor, that this man, Frank, declined to be confronted by this man Conley.

Mr. Rosser: That isn't what I objected to, he said that at that meeting that was proposed by Conley, as he says, but really proposed by the detectives, when I was out of the city, that if that had been met, I would have known Conley's statement, and that's not true; I would not have been any wiser about his statement than I was here the other day.

The Court: You can comment upon the fact that he refused to meet Frank or Frank refused to meet him, and at the time he did it, he was out of the city.

Mr. Arnold: We did object to that evidence, Your Honor, but Your Honor let that in.

The Court: I know; go on.

Mr. Dorsey (resuming) They see the force of it—

Mr. Rosser: Is that a fair comment, Your Honor, if I make a reasonable objection, to say that we see the force of it.

The Court: I don't think that, in reply to your objection, is a fair statement.