

CONFIDENTIAL

lathe looked like Mary Phagan's hair, that on Monday April 28th Magnolia called Cora Falta's attention to said hair which was alleged to have been found by Barrett on the lathe, and the said Cora Falta states positively that the hair on said lathe was not the hair of Mary Phagan, and that the same was entirely too light in color and was not of the same texture as that of Mary Phagan's.

Defendant further shows that one of the main facts relied on by the state to corroborate the witness James Conley, was the alleged finding of Mary Phagan's hair on said lathe machine by the witness Barrett. The Solicitor General proved by the witness Barrett that, on the Monday following the murder, he found several strands of hair on a lathe in the metal room, where the negro Conley claims to have picked up Mary Phagan's body. The Solicitor General proved, on his cross examination of the witness Magnolia Kennedy, that the hair found on the lathe resembled the hair of Mary Phagan. The Solicitor General claimed in his argument that the finding of this hair was one of the circumstances against Frank that it had been found by Barrett and identified by Magnolia Kennedy and four times in his argument to the jury he alluded to it as a circumstance against Frank. The Solicitor General likewise alluded to the finding of this hair in his brief before the Supreme Court of Georgia.

Defendant further shows that it was one of the strong contentions of the State that Mary Phagan had been inveigled by Frank into the metal room on the second floor of the factory and he had there murdered her. The negro Conley in his testimony stated that he found Mary Phagan in the metal room, dead, and that Frank engaged him to conceal her in the basement of the factory. The witness Barrett testified that he found certain hair upon a lathe in the metal room, which the state contended was the hair of Mary Phagan. This newly discovered testimony of Cora Falta shows that the hair found by Barrett was not the hair of Mary Phagan.

Defendant here and now offers to show and prove to the court all of the facts herein set forth and swears to the existence of these facts as the truth, and asks the court to investigate them in this extraordinary motion.