

I have not heard Miss Lucile say whether she believed it or not I don't know why Mrs. Frank did not come to see her husband but it was a pretty good while before she would go to see him--maybe two weeks. She would tell me wasn't it might bad he was locked up. She would say 'Minola, I don't know what I'm going to do.'

The defendant shows that this affidavit of Minola McKnight was denied by her upon the stand during the trial and the evidence of her husband Albert McKnight was claimed by the Solicitor to support this affidavit of Minola McKnight.

The newly discovered evidence of the said McKnight denying that his wife told him any such thing as is alleged in the excerpt from the above affidavit is material to this defendant's case and ought to produce a different result upon another trial.

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

The defendant further submits that the discovery of the foregoing facts is material and that it is such an extraordinary state of facts as would probably produce a different result on another trial, and that said facts were unknown to the defendant and his counsel, and it was impossible to have ascertained the same by the exercise of proper diligence and the same are not brought to the attention of the defendant and his counsel, until after the

motion for new trial

had been heard and passon on.

6. Defendant further shows that he should be granted a new trial upon the newly discovered evidence of Mrs. J. B. Simmons, which has come to the knowledge of this defendant and of his counsel since the original motion for new trial was heard and passed on, and which is as follows; that the said Mrs Simmons was, on the 26th day of April, 1913, in the City of Atlanta, and was calling at the Atlanta Shoe Company's place of business at No. 25 W. Alabama street at about two twenty (2:20) or two thirty (2:30) o'clock P. M., that, shortly thereafter, she left the Atlanta Shoe Company's place of business, going north on Alabama